96-190

STRIPPER OIL MISCERTIFICATION

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

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CONTENTS

Testimony of—

	Page
Corrallo, Carl, Solicitor, Office of Special Counsel for Compliance, Economic Regulatory Administration, Department of Energy	5
Harvey, Gordon, Acting Assistant Administrator for the Office of Enforcement, Economic Regulatory Administration, Department of Energy	5
Rollins, Hazel R., Administrator, Economic Regulatory Administration, Department of Energy	5
Additional material submitted for the record by—	
Energy Department:	
Charter Oil Co.—Purchase/sales, 1976–79	45
Letter dated June 11, 1980, with attachments, from Mr. Corrallo to Chairman Eckhardt re sales of stripper well crude oil by five major refiner companies	38
Sales of crude oil for 1976 through 1979 as reported by firm	32
Oversight and Investigations Subcommittee, Committee on Interstate and Foreign Commerce:	
Chart—Stripper oil production compared with refinery receipts, 1976–79	3
Letter dated March 10, 1980, from Chairman Eckhardt to Secretary Duncan re discrepancy between the volume of crude oil reported by importers of record and the volume of foreign crude oil received into inventory by refiners	57
Letter dated April 4, 1980, from ERA Administrator Rollins to Chairman Eckhardt re volumetric discrepancies in stripper well oil production as reported in the domestic crude oil first purchases program and the entitlements program	60
Stripper oil sales by resellers with 1979 sales over 1 million barrels	51

STRIPPER OIL MISCERTIFICATION

FRIDAY, APRIL 18, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. Bob Eckhardt, chairman, presiding.

Mr. ECKHARDT. The subcommittee on Oversight and Investigations will come to order.

I think I might give a little background with respect to the matter with which we are concerned. It has to do with stripper oil.

Stripper oil was treated favorably on passage of the Emergency Petroleum Allocation Act of 1973, and even more favorably in the Energy Conservation and Production Act of 1976. Since the passage of ECPA stripper oil has sold at world prices.

I think the term "stripper oil" is a little bit deceiving to some. They think of it as the gravy that remains in the skillet after the supply of oil that feeds our economy has been used up, as if it were a relatively small quantity of oil. In fact, over a period of time it has run at around 15 percent of the U.S. oil.

It is true, of course, that stripper oil has somewhat increased as a percentage of the total volume, partially because of what I have always called the Gypsy Rose Lee rule; that is, once a stripper, always a stripper.

Roughly, the rule that exists today is that if a well produces less than 10 barrels of oil per day over the period of a year, it is so classified and it does not lose that classification merely because enhanced recovery brings a well to a larger level of production.

Therefore, there is considerable opportunity for a bit of—not to be pejorative—chicanery in treating certain oil as stripper oil, which would bring a considerably higher price.

In the past this has not been quite as much a temptation as it is today. However, with a good amount of the oil which if it did not decline to the stripper category would sell at around $6 a barrel, and if it does decline to the stripper it may sell at somewhere around $36, you can see that there is a considerable incentive for misclassification, which is the term that is used.

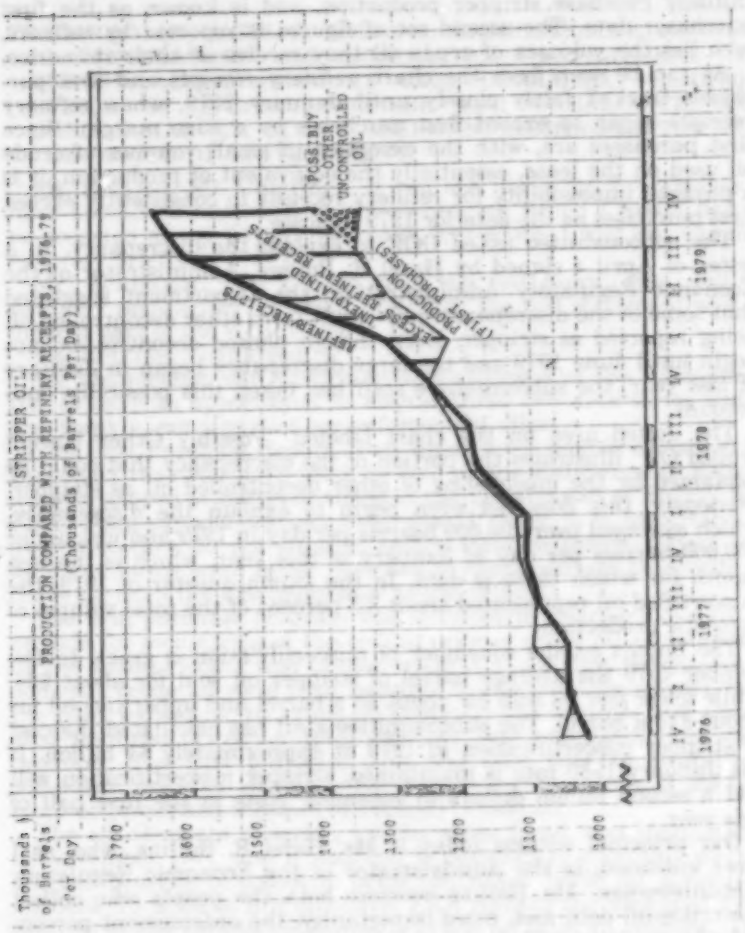
I remember I used to have a schoolmate who frequently misclassified his examinations after looking at my papers. We used to call that cheating.

At any rate, we want to look into this total question of stripper oil. I think our hearing today is a kind of detective mystery, and I

think it has sex appeal. It might be called, "The Billion Dollar Stripper." That is what we intend to examine today.

Now the dimension of miscertification can be illustrated by comparing data from two Department of Energy reporting series. The subcommittee has compared these data on a chart which is on display to my right.

[The chart referred to follows:]



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Mr. ECKHARDT. The first set of data is reported by those who initially purchase stripper production, and is known as the first purchaser data. The second set of figures is reported by refiners, who list the volumes of crude oil they receive at their refineries.

As can be seen from the chart, refinery receipts and first purchases tracked fairly closely until January 1979, when refinery receipts began to exceed first purchases by a wide margin. Since first purchases are, with the exception of small volumes of crude oil used on the lease, essentially the equivalent of production, it is a physical impossibility for refinery receipts to consistently exceed first purchases as the data for 1979 indicate.

The subcommittee asked DOE to explain the discrepancy. In a letter of April 4 signed by Hazel R. Rollins, Administrator of the Economic Regulatory Administration, the Department suggested that some of the discrepancy may result from other decontrolled oil being reported as stripper. Even though phased decontrol did not begin until June 1979 and the large discrepancy began in January of last year, the subcommittee staff has taken this possibility into account.

The dotted area on the chart labeled "Possibly Other Uncontrolled Oil" illustrates the portion of the discrepancy that could be explained by the mislabeling of other decontrolled oil as stripper. Obviously, this does not even begin to explain the discrepancy, which averaged over 200,000 barrels per day in 1979 and just under 300,000 barrels per day in January of this year, which is the last month for which there is data. In the fourth quarter of 1979, the miscertified oil represented about 3.5 percent of the total volume of domestic production.

The impact on the consumer of miscertification is great. In December 1979 the average barrel of stripper oil sold for about $35, while lower tier oil sold for about $6 a barrel and upper tier oil for about $14 a barrel. The subcommittee staff has calculated the cost of stripper miscertification in 1979 at approximately $1 billion. If the January 1980 rate is maintained, stripper miscertification will add a second billion dollars to consumer costs in the first half of this year.

Our principal witness today is Ms. Hazel R. Rollins, who, as I have indicated, is the Administrator of the Economic Regulatory Administration. Ms. Rollins oversees both the people who collect the crude oil data and, more importantly, the enforcement personnel who we hope will deal with this problem quickly and successfully.

Ms. Rollins, we always swear the witnesses here.

Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ms. ROLLINS. I do.

Mr. ECKHARDT. Do you have with you persons who will also testify?

Ms. ROLLINS. I have with me Carl Corrallo, who is the Solicitor of the Office of Special Counsel for Compliance, and Gordon Harvey, who is the Acting Assistant Administrator for Enforcement in the ERA.

Mr. ECKHARDT. Do you gentlemen also swear to the truth?

Mr. CORRALLO. I do.

Mr. HARVEY. I do.

TESTIMONY OF HAZEL R. ROLLINS, ADMINISTRATOR, ECONOMIC REGULATORY ADMINISTRATION, DEPARTMENT OF ENERGY, ACCOMPANIED BY CARL CORRALLO, SOLICITOR, OFFICE OF SPECIAL COUNSEL FOR COMPLIANCE; AND GORDON HARVEY, ACTING ASSISTANT ADMINISTRATOR FOR THE OFFICE OF ENFORCEMENT

Ms. ROLLINS. Mr. Chairman, if you are ready for my remarks, I have submitted testimony to the committee which I would like to be accepted as my formal testimony. Therefore, I will just summarize very briefly.

Mr. ECKHARDT. Yes. I have read the testimony. That will be perfectly satisfactory. Without objection, the full statement will be made a part of the record. [see p. 11.]

Ms. ROLLINS. Thank you.

We are pleased, Mr. Chairman and members of the subcommittee, to have an opportunity to discuss these two data series which are, frankly, not a part of our enforcement effort.

The First Purchase Report, from which some data is extracted on this chart that you have used, as well as the Entitlements Report, were developed at different times in the Department of Energy and FEA. They support distinct programs. I think it is important to note that they do not support enforcement programs. These two different forms were never designed to track various categories of crude oil from the first purchaser to the refiner.

The first purchase program was initiated in February of 1976 to provide for monitoring of the ceiling price of crude oil as mandated by the Energy Policy and Conservation Act. All first purchasers of domestic crude oil were then required to file monthly reports with the ERA indicating, by crude oil category, the volumes and associated wellhead prices for total monthly first purchases from each producer. The first purchase data was used then to establish a composite price of all crude oil. Currently, this data is used to monitor prices and volumes of domestic crude oil.

The entitlements program, on the other hand, was inaugurated in November 1974, and it was and is designed to equitably distribute the benefits of domestic price controlled crude oil among all refiners. To achieve this objective, ERA collects the weighted average cost of the various categories of crude oil from all refiners. This information is, of course, reported on the Entitlements Report and is used to determine the weighted average refiner acquisition cost of old, new, and uncontrolled oil. These weighted average costs are used then to compute the entitlement price for each month that is reported.

The benefits of domestic price controlled crude oil are then distributed by the national supply ratio which is based upon the adjusted receipts volumes of old oil, new oil, and crude oil runs-to-stills. These benefits are then computed on a company-by-company basis and distributed through a process of buying and selling entitlements.

Volumes of each category or tier of crude oil reported on the First Purchase and Entitlements Report may not—and obviously do not—correspond for several reasons.

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One, the time lag between the time the crude oil is reported on the First Purchase Report and the time the crude oil is sold to a refiner and booked and reported on the Entitlements Report may be as much as 6 weeks or more. Therefore, the volumes of crude oil reported on the two forms filed for the same month may never necessarily match.

Adjustments of oil volumes and prices to the First——

Mr. ECKHARDT. Do you mind if I interrupt you?

That is one of the points of possible discrepancy. That could not continue over a very long period of time, could it, because these questions ought to wash out over a period of time, should they not?

Ms. ROLLINS. They should, Mr. Chairman, but in some instances I think they may not have. We would like now to focus on the January 1979 to, say, June or July 1979 dates.

In trying to determine——

Mr. ECKHARDT. Didn't you have the same situation before the first of 1979? They apparently did wash out, as would be indicated by that chart.

Ms. ROLLINS. I think we had a major discrepancy. You can see the bubble there on the chart in the last quarter of 1976 and the beginning quarter of 1977. Whenever you find the marketplace a bit disrupted or reporting requirements changed, there is a great deal of confusion in the system. I am not saying I don't agree with you, and our enforcement staff sitting here to my right and left would tell you that, of course, miscertification takes place. If we could rely on the data from both of those reports, of course, some of that static between the two systems has to represent miscertification.

We can call resellers rascals. We can call them violators of the law. However, we know from the enforcement activity we have undertaken that miscertification is in vogue. It is a way to take the best and the biggest advantage of the price regulations. I think we are after that.

However, regarding this report, particularly during the period of January 1979 through the end of that year, you had a disrupted marketplace when many refiners were either trading or selling to each other to try to make do.

Inasmuch as the requirement in the entitlements program is that a refiner report purchases booked, not runs-to-still, it is quite apparent that if you had quantities of oil moving from refiner to refiner—in changes or in outright sales—you might have seen some double counting. That, of course, in no way explains the entire difference.

I think there is another reason. I would like to go on to address some of these other points if you find that useful.

Mr. ECKHARDT. Please proceed.

Ms. ROLLINS. The First Purchase Report has behind it a discipline. It is a discipline that was built out of the requirement under the statute that crude oil prices not exceed the composite. This report has always been run with a great expectation that there would be reporting of errors in calculation and there would be opportunities to change reporting errors over time. Why? Because then the FEA and subsequently the Department of Energy had to

calculate very carefully costs for all volumes of crude oil to ensure, up until June of 1979, that the legal composite was not exceeded.

Therefore, that data series has behind it a much stronger, ethic for keeping the data system as pure as possible. People are not only encouraged but did come in to correct information when it was misfiled or they had made honest errors.

The Entitlements series, on the other hand, is a very large program and, it is a program that was always intended to do rough justice. Nobody has ever said that we have equalized totally the cost of both imported and controlled crude oil.

In this instance the pressure on the system was to get the Entitlements list out early, on time, and not to wait and reform data, not to accept or even encourage corrections. This was for two reasons.

One, we were after price and, although volume on a weighted average involved in that reporting system was important, any error in volume because we were dealing with so many barrels of crude oil would have a tendency to skew the entitlements adjustment only by pennies.

I have an example of an occasion when a major refiner reported to us that it had misreported by about $6 a barrel on some 4 million barrels of crude oil. The error in the computation would have resulted in a 2-cent change to the run credit.

Therefore, where there are those kinds of gross errors, we don't seek to try to correct them until the next reporting month.

I think that this example perhaps describes the differences in the disciplines of the system.

The staff tells me—and I am fully convinced—that the history of the First Purchase Report is one that has built into it more reliability as it related to the certification of the different categories of crude oil. The Entitlements Report, where the emphasis is on speed and correction for individual errors, has never taken a very close look at what the gross quantities are, as they relate to prices, in terms of trying to calibrate them and correct them over time.

Mr. ECKHARDT. That is the second area of explanation.

Ms. ROLLINS. Yes.

Mr. ECKHARDT. May I ask one question about that?

Ms. ROLLINS. Certainly.

Mr. ECKHARDT. If your discipline is tight with respect to controlling the producer in order that the producer be forced to stay within the limitations of the composite, and if your discipline is looser with respect to following through as to what price the middleman sells to the refinery, will not a failure to assure that the middlemen does not miscertify result ultimately in a higher acquisition cost by the refinery and a higher passthrough to the consumer?

Ms. ROLLINS. The answer is yes for the moment.

The assumption on the part of the committee, I think, is—and perhaps if we were redesigning this program today or doing it last month it would work this way—that these data which are used, one, for a monitoring purpose and, two, for the purpose of the entitlements program, would also become enforcement tools. These data series have never been enforcement tools.

Mr. ECKHARDT. May I say this, though? When we drafted the act, we did not merely intend it to limit the price that producers get for oil. We primarily were concerned in 1975 when we were dealing with the act about curbing inflation. We were much more concerned about the impact of the Arab cartel price at that time, which was moving us into a high inflationary period, than we were in preventing oil men from making money.

However, if we do not control the question of price beyond the producer, all we succeed in doing is denying the producer that money which at least conceivably could encourage production, and at the same time we lay a heavy inflationary load on the consumer. Now that is what we are trying to get at here—whether or not after production and after adequate controls have been administered in what you call a highly disciplined system, whether that discipline continues to the point where the consumer enjoys the lower price as a result of our regulations.

Ms. ROLLINS. All right. I understand the point you are making. Perhaps I have not addressed it appropriately.

The enforcement effort in the Department of Energy has for the past 18 months focused on the phenomena of violation of the certification requirements. There are a number of ways that one can take advantage of our regulations. There are many people in town who have made a career of finding the loopholes in the regulations.

What we see is that when there are transgressions, they occur with regard to miscertification—from old to new. Now, of course, the vogue is a flip from control to stripper. You have outlined the reason why—because stripper, of course, bears the highest market price.

The activity of monitoring the producers, refiners, and resellers, and looking for that transgression, that violation of the certification requirements, takes place independently of the information that is contained in these data.

I would like to cite one other point. Once the DOE auditor, either from the Office of Enforcement or the Office of Special Counsel, arrives at the site, the first thing you will hear from the representatives of these firms is, "Oh, my goodness, I think we need to refile some of our data."

Once the enforcement activity starts to take place, then people begin or are in a position to examine receipts and invoices, and there is a great scurrying or an attempt to correct information, especially regarding refinery receipts which have not been corrected in the past.

Our enforcement presence, I think, is very strong. Our history in terms of where we have come with the reseller program from 1976 to today. We started with less than 1 percent of the field force examining the reseller marketplace. Today we spend about 23 percent of all our audit man-hours on the enforcement side of that area. This clearly indicates that we understand the phenomena. Not only do we understand it, but more often than not, our administrative and enforcement actions, are focusing on this miscertification. At least 25 percent of the administrative violations we have, tended to be in this area.

The same is true with regard to our special investigations effort and what we are doing with the Justice Department, basically involving miscertification. Here of late, as we get closer into the increase or the great jump in stripper price, more and more miscertification is stripper. We are aware of that. We are enforcing that segment of our regulations.

Mr. ECKHARDT. Ms. Rollins, I want you to understand that, at least I as chairman of this subcommittee, am not here to shoot the watchdog. I think your agency has beefed up your enforcement effort.

However, it troubles me a little bit—what you say about people scurrying to get their records in order when you begin to check them. On the first purchase report form, the original form they are supposed to file, under part II, Certification, it is provided that section 1001 of title 18, United States Code, makes it a crime for any person knowingly and willingly to make to any agency or department of the United States any false, fictitious, or fraudulent statements as to matters within its jurisdiction.

Now I can imagine what would happen to me if I began to change my statements which were made under oath on my IRS form about the time the IRS begins to investigate me. That would not be treated with great charity by that agency. I assume that DOE does not treat with great leniency this activity of recertifying after the making of a certification under penalty of criminal prosecution. I would hope you do not.

Ms. ROLLINS. No, Mr. Chairman, we do not. However, it must be pointed out, again with regard to the entitlements form, quantities and volumes of uncontrolled oil are permitted to be reported to the best good faith estimate. We are very stringent in holding to the line and permitting people to refile.

However, where there has been a regulatory permissiveness, it has been because of the desire for speed, and because of the recognition of the difficulty of ferreting out and clearly identifying various uncontrolled oil today. Our regulations do contain that language.

You will recall that last year in an attempt to stop the stampede of those who would rush to recertify or to correct, we set some standards which said, that you may not do this after time "X". Quite frankly, I have forgotten when time "X" was. I was on the outside then and working for a large accounting firm. I am well aware of how many people rushed in to beat that deadline.

The rule is now under very stringent review of the facts on the record. Are these entitlement refilings permitted? Certainly where those criteria are met, we do permit them.

Mr. ECKHARDT. We understand that there are categories of decontrolled oil that may be innocently put in a single category for stripper oil. I think that is what we have defined in the dotted line area on the chart. However, that still only accounts for a very small difference between these two lines.

I think what we have done is assumed that the maximum amount of legally permissible or, I may say, harmless misclassification occurred. That is how we have graphed the chart there. There is still a very great difference between the top line, even as correct-

ed, and the refinery acquisition. We see an increasing level of refinery acquisition continuing.

Ms. ROLLINS. I hate to be the cowperson who shot herself in the foot. However, the one thing I have tried to explain in describing these two data series is our preference for and our belief that the first purchaser series is more accurate.

Now our people from the Energy Information Administration also believe that series is more accurate. The reason is that we now have a capability to cross-check. This would be gross figures, not the individual figures within any one of these series.

The EIA is now cross-checking all of its data on its MER, both production and first purchases, against information supplied by State energy offices. We have found over the past few months that our first purchases data, with regard to crude oil, moves closer and closer to the aggregate data that now is supplied to us by the States. We believe this data to be more accurate.

I cannot tell you, Mr. Chairman, how far off the entitlements data is. I have no idea. I wish I knew.

What it would take, of course, is a total verification for certainly a period of 2 or 3 months. This would require enforcement staff who should be doing other work, to ascertain just how far off that data is.

Mr. ECKHARDT. There is no incentive on the part of refiners to misstate the data, is there? It is no skin off their noses either way. After all, they are protected by the entitlements program. If they pay more for stripper or if they pay less, they also get their ordinary markup for refining. Therefore, you would think if there were errors, the errors would tend to be upward or downward, sometimes up and sometimes down, and over a period of time they ought to somewhat even out. Wouldn't that be your expectation?

Ms. ROLLINS. Well, I don't think they always even out. Again speaking of rascals in the trade, we do entitlement verification. We find violations there. We find violations in reporting runs-to-stills. We find violations in reporting quantities of old oil up or down and uncontrolled oil up or down.

Some people do it because they make an honest error and do not understand the reporting requirements. Some people do it because they do understand the reporting requirements and understand that they can take advantage of the system.

We do spot check and verify that reporting system. However, to certify it absolutely untainted of error, either honest mistake or fraudulent error, would take more time and enforcement staff than I have. Quite frankly, I think that staff can be better used to get after resellers and producers who we know from time to time tend to violate our regulations and the laws of this Congress.

Mr. ECKHARDT. I have taken a good deal of time. I have a number of more questions. However, I will pass the time on now to Congressman Gore.

Mr. GORE. Did you finish your statement, Ms. Rollins?

Ms. ROLLINS. More or less, sir.

[Testimony resumes on p. 22.]

[Ms. Rollins' prepared statement follows:]

STATEMENT

OF

HAZEL R. ROLLINS

ADMINISTRATOR, ECONOMIC REGULATORY ADMINISTRATION

DEPARTMENT OF ENERGY

BEFORE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

U.S. HOUSE OF REPRESENTATIVES

APRIL 18, 1980

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am pleased to have this opportunity to discuss with you the difference between the volume of stripper oil reported as purchased by first purchasers and the volume of such oil reported as received by refiners for entitlements purposes. As requested in your invitation, I have with me today representatives of the Office of Special Counsel and the Office of Enforcement.

Prior to addressing the stripper oil issues, I would like to briefly review the purposes and programmatic distinctions between the First Purchasers Program and the Entitlements Program.

DESCRIPTION

The First Purchase Report (ERA-182) and the Entitlements Report (ERA-49) were developed at different times for very distinct programs. The two different forms are not designed to track various categories of crude oil from the first purchaser of crude oil to the refiner.

The First Purchases Program was initiated in February 1976 to provide for monitoring of the ceiling price of crude oil as mandated in the Energy Policy and Conservation Act of 1975. All first purchasers of domestic crude oil are required to file a monthly report with the ERA indicating, by crude oil category, the volumes and associated wellhead price of total monthly first purchases from each producer. The first purchase data was used to establish a composite price of all crude oils.

Currently, this data is used to monitor prices and volumes of domestic crude oil.

The Entitlements Program, inaugurated in November 1974, is designed to equitably distribute the benefits of domestic price controlled crude oil among all refiners. To achieve this objective, ERA collects the weighted average cost of the various categories of crude oil from all refiners. This information is reported on the Entitlements Report (ERA-49) and is used to determine the weighted average cost of old, new, and uncontrolled oil. These weighted average costs are used to compute the entitlement price for the month reported.

The benefits of domestic price controlled crude oil are then distributed by the National Supply ratio which is based upon the "adjusted" receipts volumes of old oil, new oil and crude oil runs-to-stills. These benefits are then computed on a company-by-company basis and distributed through a process of buying and selling entitlements.

Volumes of each category or tier of crude oil reported on the First Purchasers and Entitlements reports may not correspond for several reasons including:

- The time lag between the time the crude is reported on the First Purchaser Report and the time the crude is sold to a refiner and reported on the Entitlements Report can be six weeks or more. Therefore, the volumes

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of crude oil reported on the two forms filed for the same month do not necessarily match.

. Adjustments of oil volumes and prices to the first purchaser reports are processed by ERA up to 90 days following the reporting period. These reporting adjustments then are reflected in the First Purchaser Program totals for the appropriate month. However, corrections to the entitlement volumes and prices for uncontrolled oil, including stripper oil, are not subsequently made because the adjustments do not affect the entitlments price.

. Reporting errors may occur with respect to both reports. First purchasers in reporting may not distinguish between one category of uncontrolled crude oil and another. Thus, one category, such as stripper, may be reported as "uncontrolled crude oil" or as "newly discovered," "incremental tertiary," etc. Likewise, refiners frequently in reporting do not distinguish one kind of "exempt" crude oil from another since all, in fact, are exempt from price controls. While refiners must certify for the Entitlements Report the total amount of uncontrolled crude oil for a particular month, they may make good faith estimates of the categories of uncontrolled crude such as stripper oil. This mixing of uncontrolled crude oils on reports is not considered to be a breach of the filing requirements.

EPORTED INCREASE IN STRIPPER OIL PRODUCTION

The volume of stripper oil reported has been increasing teadily over the past several years. For example, the volume f stripper oil production reported on the First Purchaser eport increased from approximately 1.1 million barrels per ay in March 1977 to approximately 1.25 million barrels per ay in January 1980.

Some of the increase may reflect an increase in stripper ell production brought on by the exemption of stripper oil rom price controls, and the increase in the unregulated market rice of stripper oil during recent years. Secondly, the reported ncrease may be due to the reporting differences previously escribed.

Finally, some of the difference in the reported amounts ay result from possible certification violations by crude il producers, crude oil resellers, or refiners, or all three. owever, based on the reporting forms it is impossible to etermine with any degree of accuracy precisely how much of he increase may be attributable to suspected violations of he certification requirements. As with pricing violations, certification violations can be detected only through actual audits.

NFORCEMENT AND COMPLIANCE PROGRAM

The Economic Regulatory Administration has a very active audit and enforcement program.

The Office of Special Counsel has responsibility for enforcing DOE petroleum price and allocation regulations with respect to the 35 largest major refiners. Accordingly, major refiner activity in the production, crude reselling, and refining of domestic crude oil has been and continues to be the subject of review by Special Counsel personnel.

Recently, the Special Counsel completed the audits of 15 of the largest major refiners for the period 1973 through 1976. In at least seven instances, the Special Counsel's Office reports that its audit of those major refiners' crude oil production activities included reviews of the period January through May 1979. This review disclosed some continuation of crude oil production violations involving erroneous classification of crude oil as stripper crude oil.

The Special Counsel will be reviewing the activities of the remaining 20 major refiners for the period 1973 through 1976 during the calendar year 1980. In connection with this second phase of the Special Counsel's audit activity, five major refiners which have substantial crude reselling activities have been identified. These refiners include Coastal, Charter Oil, Koch, Champlin and Tesoro. These audits were intensified beginning in January 1980 and will be completed by the fall of 1980 with enforcement actions to be initiated, where appropriate, by the end of this year. Data from those audits are not yet available.

ERA's Office of Enforcement has responsibility for enforcing DOE's price and allocation regulations, for other than the 35 major domestic refiners. Enforcement's responsibilities include the independent crude oil producers, independent crude oil resellers, small refiners, natural gas liquid processors, and product resellers and retailers.

The enforcement program for crude oil involves auditing independent crude oil producers, crude oil resellers, and crude oil entitlements. Verification of all certifications of crude oil, including stripper, is an integral part of each audit. This enforcement program has resulted in the initiation of civil administrative actions for the return of monies illegally received as a result of certification violations and erroneously reported crude oil entitlements.

Independent Crude Oil Producer Audits

ERA's Office of Enforcement has completed over 3100 crude oil producer audits and identified probable violations exceeding $188 million. During 1979, Enforcement issued administrative enforcement documents to crude oil producers alleging overcharges of approximately $68 million for audit periods some of which included a portion of 1979.

Overcharges identified in these audits pertaining solely to stripper oil violations amounted to more than $34 million. An examination of 45 of these documents disclosed that 3.6 million barrels were allegedly miscertified. Of the amount miscertified, 3.2 million barrels or approximately 88 percent were erroneously classified as stripper oil.

At present, there are 249 open crude oil producers under audit with 49 of these cases covering periods in 1979. The results of the audits for periods in 1979 are not sufficiently complete to draw any definitive conclusions as to an increase in stripper oil miscertification. Twenty-nine audits for 1979 have been completed. Of these, 18 have been closed without violations being found and five are currently being pursued for certification violations, including improper certification of stripper oil.

Independent Crude Oil Reseller Audits

ERA's Office of Enforcement has mounted a massive, on-going enforcement program to detect and prosecute pricing and certification violations of independent crude resellers. To date, 441 firms have been identified as crude oil resellers based on available information. Of these firms, approximately 160 have been audited or are presently being audited. Each audit scrutinizes the reselling practices of the firm to verify that the firm's sales of each tier of crude comply with DOE's pricing and certification regulations.

Since April 1979, 25 firms have been cited through administrative enforcement actions for violations amounting to $232.1 million. Four of these cases involve certification violations concerning stripper oil. In these cases, disgorgement of illegal revenues has been sought by the Office of Enforcement in civil cases. Certification violations involving stripper oil account for approximately 6 percent of the total crude oil certification violations by these firms.

In addition to certification violations cited in formal enforcement documents, audit results for 88 firms that have not progressed to the document issuance stage indicate potential certification violations involving over 83.2 million barrels. Certification violations involving stripper oil account for approximately 18 percent of this amount. Some of these potential violations involve audit periods that include 1979.

Entitlement Audits

Of the 204 firms that report to the Entitlements Program, the Office of Enforcement has completed data verification audits of 122 firms and another 51 audits are in progress. Forty-three of the on-going audits include periods in 1979. Over $37 million in alleged violations have been identified as involving improper reporting of crude oil receipts.

SPECIAL INVESTIGATIONS

The Special Investigations Division of the Office of General Counsel is also actively involved in pursuing possible willful violations of the crude producer and crude reseller regulations. The majority of these matters arise from indications of willful misconduct observed during the audit process. Of the 69 cases referred by this Division to the Department of Justice for criminal investigation since October 1977, 26 have involved resellers and producers.

With regard to independent crude oil producer cases as of April 15, 1980, there were eight open special investigations, of which five involved possible false certifications of

crude oil as stripper oil. Four producer cases have been referred to the Department of Justice for possible criminal investigation and prosecution. Three of these referrals involve false stripper certification. One has been disposed of by a guilty plea and the remaining two are under investigation by the Department of Justice.

With regard to crude oil reseller cases, as of April 15, 1980, there were 39 open special investigations. About one-third of these cases involves possible false stripper certification. Approximately five of these cases include inquiries into possible false stripper certifications after January 1979. The number of cases, of course, is subject to frequent change as DOE extends its audit periods and investigates additional firms.

The Special Investigations Division has referred 22 crude reseller cases to the Department of Justice for possible criminal investigation and prosecution. Many of these matters involve more than one company. Nine of the referrals involve some false certification of oil as stripper well crude oil during the periods prior to January 1979. Generally, the Department of Justice extends the period of review in the grand jury inquiry. Of these nine referrals, two have resulted in dispositions, one with a guilty plea and one by conviction. Five referrals that involve false stripper certification by crude oil resellers are under investigation by the Department of Justice.

In conclusion, Mr. Chairman, I believe the enforcement program is aggressive and has achieved substantial results in auditing and prosecuting certification violations. In addition, the First Purchaser and Entitlements reporting systems are accomplishing the separate purposes for which each system was designed.

I share your concern over the increase in the amounts of stripper oil being reported to ERA through the First Purchaser and Entitlements reports, particularly for the period January 1979 forward. I am also aware of data published by the Independent Producer's Association which indicates a downward trend in stripper oil in recent years. However, to update ERA's data collection system to track stripper oil from the wellhead to the refinery would cost several million dollars and take approximately a year to implement. In view of the expiration of price controls in September 1981, there may be little or no benefit in implementing such a system.

I want to assure you that ERA's Office of Enforcement will continue its intensive audits and investigations designed to identify certification violations of independent crude resellers. These audits have been expanded to include examination of certification practices in current months and 1979.

The Office of Special Counsel is updating its audits of the 15 major refiners which were recently completed for the 1973 - 76 period information in these reports which indicate major refiner activity in this area will be referred for incorporation into the Special Counsel's audits.

Mr. Chairman, our history of identifying stripper miscertifications is excellent. We will continue this effort with particular attention to January 1979 and forward. This concludes my formal statement. I will be happy to answer any questions of the Subcommittee.

68-542 O—80——4

Mr. GORE. Fine. Thank you very much, Mr. Chairman.

I would like to preface my questions briefly by trying to put them in context.

I think this is only the latest chapter in a very long book. What the oil industry has done during this period of controls which began in 1971 and which will in large part end next year is really, I think, disgraceful in the history of American business. This is only one example, and only the latest example. This amounts to $1 billion a year. I don't know how to add it up, but the total is many, many billions of dollars.

Now the context also ought to include reference to the fact that the companies' role in this whole period must be secondary to that played by the foreign producing nations. One should never lose sight of that fact. By focusing on the misdeeds of the companies, we should not obscure the underlying threat that the United States—and, indeed, the industrialized West—faces from those nations.

Third, I would like to mention my respect for you, Ms. Rollins, and the many other individuals in the Department.

However, having said all of that, I just think that this latest example is again an outrage in terms of what should have been done. I understand that you came to this very late. We have had this conversation before several times. I respect your willingness to come back to the Government after serving in the private sector and knowing the circumstances that you would be returning to. I respect your motivations and your diligence.

I know that you need more staff. I know that you need backing from higher levels in the Government. This whole thing started in a Republican administration. When President Carter took office, I really do not think that he and his assistants were really prepared for the voraciousness of the oil industry. I do not think they were prepared for the magnitude of lying, cheating, and stealing that was then underway and was ready to accelerate, but they should have been. They should have geared up a massive effort.

Now let's look at this latest example here just briefly. Looking at the chart, the bottom line shows the amount of stripper oil that was bought from producers. The top line shows the amount of stripper oil that was sold after refinery. In between is lying, cheating, and stealing. It amounted to about a billion dollars last year.

Now you wrote a letter to the subcommittee in response to the chairman's letter. You said that, "The Office of Enforcement has determined that a significant portion of the reporting difference may be attributed to miscertification by crude oil resellers."

Now by the time your testimony gets reviewed, redone, edited, and so forth, it comes out this way. Finally, after all these statistical tar babies that you throw up here, you say, "Finally, some of the difference in the reported amounts may result from possible certification violations by crude oil producers, crude oil resellers, or refiners, or all three."

Let's tell it like it is. There is a lot of lying, cheating, and stealing going on here. It has been going on in all phases of the control program. The oil industry has looked on this as fair game—get it while you can. Part of the reason for that is that the enforcement effort has been as mild as it has been.

Now I think that it is not helpful for you to come here, frankly, and say that violations are in vogue this year.

Ms. ROLLINS. Well, Congressman Gore, first of all, you recognize the fine hand of several levels of review in this testimony as opposed to a letter that we plunk out of our office.

Mr. GORE. There is a significant difference. If you had come here and told us what you told us in the letter—namely, look, there's a lot of this going on——

Ms. ROLLINS. I did. I did.

Mr. GORE. Well, no, you spent most of your time on statistical——

Ms. ROLLINS. Because I think, Mr. Congressman, it is unfortunate for us to tie ourselves to these data.

Mr. GORE. Well, if it is good for the first 2 years—look at the first 2 years, 1976 through the first half of 1978. The data tracks perfectly. Then you have the big OPEC increases in the fall of 1978, and the temptation becomes irresistable and they start stealing again.

Ms. ROLLINS. All right. The misfortune here, of course, is that we cannot track earlier reporting series——

Mr. GORE. We've got it right there. There it is.

Ms. ROLLINS. If we go back to 1974—but, at any rate, the one thing we know about all data series is they never mesh absolutely.

Mr. GORE. I got into this with the Department last year on the figures from Iran and what the effect of the Iranian cutoff was likely to be on production. We got all the statistical this and statistical that. Then you wait a year later and the final figures come in. The Department was just flat dead wrong.

I suspect very strongly that the same thing is true here, and that what that gap represents is not any kind of statistical fluke. It is just stealing on the part of a lot of reseller companies that are getting away with it because you all are not enforcing the law.

Ms. ROLLINS. That, Congressman Gore, is not the case.

Mr. GORE. All right. Let me ask you this then: How many reseller firms have been cited by the Office of Enforcement for violations which occurred during the 1979 period for violations involving miscertification of crude oil as stripper oil? How many? How many have been cited?

Ms. ROLLINS. The number is five.

Mr. GORE. For violations during the year 1979?

Ms. ROLLINS. That is correct. Congressman Gore, the reason is that it takes quite a number of months to begin and complete an audit and to come up with the interpretation of the regulations that permit even the drafting of a notice of possible violation. Anybody who understands an enforcement pattern has to also understand that you do not turn up violations and official documents overnight. We have cited 25 crude reseller firms for reselling violations totaling almost one quarter of a million dollars. Five of these resellers have been cited for violations during 1979. However, none of these five firms involve stripper certification violations.

We have seen the beginning of the 1979 miscertifications. We are seeing them very early on because we have tended to focus more on contemporaneous audit matters——

Mr. GORE. Let me——

Ms. ROLLINS. May I finish, Congressman Gore?

Mr. GORE. Sure. Go ahead. However, I think you misunderstood the question.

Ms. ROLLINS. In the past the criticism was the old FEA or the DOE had done nothing at all about enforcing its regulations. We have caught up. I am not embarrassed one iota about the quality or the intention of this enforcement staff. They worked very hard. They are motivated so fiercely that sometimes one has to calm them down.

They are out there for reasons. We are not ignoring certification violations. We are not ignoring crooks. We have pulled into the can, in the old prosecutor's term, about $12 billion worth of violations. The major portion of it, of course, comes out of the Office of Special Counsel because that is where the opportunities are. There is about $1.8 billion coming out of the Office of Enforcement. We are not children patting the industry on its head.

Could we go faster? Of course, we could go faster, but we are going fast and we are intense about this—so intense that I have to handle more phone calls about people complaining about these nasty enforcement people who want to see that people obey the law. I make no apology for this staff.

Mr. ECKHARDT. Would the gentleman from Tennessee yield just a moment?

Mr. GORE. Yes; but let me say one thing first before I do.

Mr. ECKHARDT. I want to clarify something.

Mr. GORE. Go ahead then. I will yield.

Mr. ECKHARDT. I understood the gentleman to ask what enforcement actions commenced concerning 1979. I have heard that there are five cases, but have those been related to 1979?

Ms. ROLLINS. The five involved 1979 crude reseller violations, but none involved stripper violations. Those are violations which are identified and formal documents written.

Mr. ECKHARDT. Have you issued enforcement documents for 1979?

Ms. ROLLINS. That's correct. The five cover 1979.

Mr. ECKHARDT. Thank you.

Mr. GORE. Notice of probable violations?

Ms. ROLLINS. That is correct.

Mr. GORE. Notices of probable violations. Could you give us the names and dates of those NOPV's?

Ms. ROLLINS. Yes, if I can provide them for the record, Congressman.

Mr. GORE. You do not know them offhand, do you?

Ms. ROLLINS. I certainly do not. Mr. Harvey may have them here.

Mr. HARVEY. I have them. I can provide them.

Mr. GORE. Yes; could you just read them. Just give us the names and the dates.

Mr. HARVEY. These are 25 notices of probable violations—NOPV—issued. Five involve periods in 1979. We are talking about crude resellers, and the five do not involve stripper violations.

Mr. GORE. They do not involve stripper violations, stripper miscertifications?

Mr. HARVEY. No.

Mr. GORE. Then the previous answer was incorrect; is that correct?

Mr. HARVEY. There can be three types of violations, Congressman, with regard to the crude resellers.

Mr. ECKHARDT. If the gentleman would yield, we are talking about stripper violations. Can we stick to that?

Ms. ROLLINS. I am sorry, I made a mistake. I asked him and I thought he told me there were five stripper violations. Are there any stripper violations for January 1, 1979 on?

Mr. HARVEY. No; not for the 25 NOPV's that have been issued.

Ms. ROLLINS. Are there any special investigations?

Mr. HARVEY. There are five special investigations.

Mr. GORE. Let me ask another question, if you do not mind. Let's move back and just ignore the last couple of minutes.

I do not question the motivation of your staff. I have talked, formally and informally, with many members of your staff. I respect their motivation very highly. I think they want to do a good job for the most part. I think they are bright. I think they are industrious. I have had no problem with that at all. I think they are good folks.

There are just not enough of them. You do not have the support from the top. You do not have the kind of massive effort underway that I think should be made.

You have equity problems. You have a cost-effectiveness issue. The amount of money that you could save the American public would completely dwarf the salaries of more people like Mr. Corrallo who could get in there and dig.

Specifically focusing on this example, here we have $1 billion a year worth of essentially stealing—violating the law and taking money from the American public unjustly by lying about the category that oil is in.

I asked earlier how many notices of probable violation had been issued for miscertification of stripper oil that occurred during the year 1979. The amended answer, as I understand it, is zero. Is that right?

Ms. ROLLINS. Except for the five open special investigations, which include inquiries into possible false stripper certifications after January 1979. There are cases we are investigating as to possible willful violations of DOE certification regulations. Those would represent referrals to the Justice Department, indictments, and pleadings. Of that instance, there are two.

Mr. GORE. How many criminal referrals have been made to the Department of Justice—and I want you to listen, Mr. Harvey, carefully to this question—how many criminal referrals have been made to the Department of Justice by the Office of Enforcement for stripper miscertification violations which occurred during 1979? Any?

Ms. ROLLINS. There are five, as I indicated earlier.

Mr. GORE. There are five?

Ms. ROLLINS. They are not yet at Justice. They are in the prereferral stage.

Mr. GORE. So the answer is none?

Ms. ROLLINS. The answer is none at Justice. However, I am aware of one guilty plea involving a firm whose name I will pro-

vide for the record that did involve stripper miscertification that does cover the period through January 1979.

[The following information was received for the record:]

On April 8, 1980, the Da Vinci Co., Inc., pleaded guilty with regard to the sale of crude oil in violation of DOE regulations. In addition a civil consent order was entered into involving false stripper certifications at wellhead during the period September 1973 through March 1980. The firm was required to refund $500,000 in overcharges and pay a $50,000 civil fine.

Mr. GORE. There are about 441 resellers. For the 1979 audit period how many are being audited by the Office of Enforcement?

Ms. ROLLINS. Mr. Harvey will reply.

Mr. HARVEY. Currently we have 129 open audits. Of that 129, 50 involve periods in 1979.

Mr. GORE. Our information is 40 or one-tenth. However, I will accept your answer on that. That is still a little bit over one-tenth.

Ms. Rollins, you testified that lying, cheating, and stealing appears to be in vogue.

Ms. ROLLINS. It always has been, Mr. Congressman, not just in this program but generally.

Mr. GORE. I think we are looking at an entirely new magnitude in this industry since the period of control.

Shouldn't we be doing more?

Ms. ROLLINS. We are doing more. Perhaps I should have done myself a favor and not spared the subcommittee and finished reading through all of my testimony.

Part of what the Enforcement Office does—and, too, the Office of Special Counsel—is it targets and begins to look for areas where it is obvious people may be tending to take advantage of the regulations. Generally when we start an audit action, we have some wrongdoing in mind.

The crude reseller audit effort for the rest of the year, designed by the Office of Enforcement, will take into consideration the concerns of this committee regarding a stripper oil certification violations in 1979 and 1980.

Am I happy with these discrepancies? Of course I am not. It would be much easier for me to come here 18 months from today and explain to you what we have in the can. That is always easier to talk about.

What the Enforcement staff will do is finally talk to the people in OPO who come up with these records. We will send to Enforcement trend indicators. They can pick up from this entitlements list the names of companies who seem or suddenly appear to be overreporting or have during that time.

When Enforcement undertakes to do its reseller audits, rather than go after the violations they are already snipping out, they will begin by examining what went on in the uncontrolled oil reporting and pricing area during the periods January of 1979 through the day that they are there.

Now that is a change in what Enforcement had planned to do earlier in the year. It is, quite frankly, in recognition of a concern of the chairman and this subcommittee—and my concern, too—that the public or any member of this subcommittee might be left with the impression that we are not interested in vigorously attempting to ferret out all those who are violating our regulations.

Mr. GORE. Let me thank you for your response. My time is over.

I would like to conclude briefly with a suggestion, Mr. Chairman. I hope that any representatives of the industry who are present—and I notice a few of them that are in the room—would take heed.

I recommend, Mr. Chairman, that we try to set up joint hearings with the Special Investigations Subcomittee on Ways and Means at the front end of the windfall profits tax program to make sure that the IRS anticipates the incredible tendency toward fraud in the oil industry as this program begins. The experience of the last 10 years that the U.S. Government has had with the oil industry in their failing to comply with the law and intentionally avoiding the law is disgraceful. We ought to make certain that it does not repeat itself in the windfall profits tax again.

I have sent a letter to the head of the IRS, Mr. Chairman, to warn him of what the IRS is going to be facing from this industry. I hope that we can set up some hearings to go over what the IRS intends to do to deal with this.

Thank you, Mr. Chairman.

Mr. ECKHARDT. Thank you.

Mr. Marks?

Mr. MARKS. Thank you, Mr. Chairman.

Ms. Rollins, can you tell me how many people are on Mr. Corrallo's staff and Mr. Harvey's staff? How many people do you have?

Ms. ROLLINS. Yes.

On the staff of the Office of Special Counsel there are 612. I am certain of that number because it has always been 612.

Mr. MARKS. When you say it has always been 612, you mean it has always been 612 since the initiation——

Ms. ROLLINS. Since the initiation of the DOE, and actually pre-DOE when special counsel staff was split from the Enforcement staff in the old FEA.

The Enforcement Office tends to grow and shrink with the tide and the season. At this moment we find it at about 750.

Mr. MARKS. 750?

Ms. ROLLINS. 750.

Mr. MARKS. May I ask you how many more do you think are necessary for you to have on the Special Counsel's staff to be able to do the job you were talking about this morning?

Ms. ROLLINS. Given the various programs of this administration which I represent, to curb inflation and to keep Government spending in check, I could not honestly or with good conscience indicate to you that I need any more to get the job done.

Mr. MARKS. How about on Mr. Harvey's staff.

Ms. ROLLINS. The same would be the case with Mr. Harvey's staff.

Mr. MARKS. In other words, you have an adequate number?

Ms. ROLLINS. I think I do. Given the tenor of today, I do.

Mr. MARKS. Well, that is an interesting comment inasmuch as my understanding previously in your testimony is that one of the reasons perhaps that we have the discrepancy that is shown in these graphs and the serious problems might, to some extent at least, be because you do not have enough people. But that is not the situation at all?

Ms. ROLLINS. No. What I was trying to indicate was that even if I had an additional 100 people, I certainly would not use them to try

to insure that this entitlements information was correct. If I had the luxury—and I would consider it at this time and in this year a luxury to have an additional 100 people—I would not use them that way. That was what I intended to say.

Mr. MARKS. Ms. Rollins, in commenting on that before I think you mentioned that there are other more serious areas perhaps. Maybe you will tell us what is a more serious area than saving what will be by mid-1980, we are told by the majority staff, a loss to the consumers of $2 billion.

Ms. ROLLINS. My point, sir, was that I do not think I save the consumers anything by insuring that this data system is the purest it can be. How I insure that American consumers do not overpay is to keep a vigorous enforcement staff out enforcing regulations that everybody understands and agrees with. I indicated to you that I thought I had adequate staff to do that.

Mr. MARKS. Ms. Rollins, I understood your explanation to the chairman when you mentioned "rascals" and what-not. However, how can we believe that some reseller could really possibly not know what he or she is doing? The control price is somewhere around a high of about $14 and stripper sells at about $35 or so. The sellers know what they paid and what they got. Why can't you just ask for that data?

Ms. ROLLINS. We are now asking for that data. In October the Department finally settled its own internal problems and cleared a form through OMB requiring crude resellers to report pricing data.

Mr. MARKS. It was an internal problem?

Ms. ROLLINS. Yes; internal problems and problems with OMB. You understand that the Department has and requires the public to fill out more forms and more reports than I can indicate to you. There are series of them. Some belong to the ERA; some do not.

There was some concern on our part that inasmuch as we were collecting this information in other areas, the reseller self-certification form would be a redundancy. In fact, it is not and it was not. That form finally has been published. Resellers are now required to self-certify to us. We did not have that form last year.

As I indicated in my letter to the chairman, I believe that especially after we have had an opportunity to work with the form, and the reporting industry has had an opportunity to work with it, we will be in a better position to focus on these discrepancies, using information that the resellers have self-certified.

Again, the difference here is this will be an enforcement form rather than a basic form for monitoring or used by another program area.

Mr. MARKS. Let's talk about that form for a minute. That form has been in operation since October?

Ms. ROLLINS. Yes. That is correct.

Mr. MARKS. This is the middle of April. That is almost 6 months. How much longer is it going to take?

Ms. ROLLINS. I think we are getting data now that we are comfortable with. I do not think this length of time to shake out the system and the computer that spews it back to us is unusual.

What I had indicated to the chairman was that certainly within another 6 months I would be prepared to speak more definitively to

these discrepancies. That is for another reason, too, of course. We will have more enforcement experience behind us in the 1979 era.

Mr. MARKS. Ms. Rollins, do you agree with the majority staff's estimate that the discrepancy that we find here now will amount to approximately $2 billion by mid-1980?

Ms. ROLLINS. No; I do not agree. I cannot give you a number yet because I am telling you that I am not comfortable with the data and the data system we are using for the Entitlements Program. I think it is overestimated. By how much, I cannot tell you.

Mr. MARKS. If you are not satisfied with their suggestions of $2 billion by June of this year, let's say, 1980, how close could you come to estimating to us what it will be?

Ms. ROLLINS. What I said to you is that I am not in a position to estimate. I would be very uncomfortable estimating. Of course, it may well be that they are right on the money. The unfortunate thing is that we will not know for another year. We will know eventually.

Mr. MARKS. This is my last question to you.

If we do find the violators, can we in fact get the money back?

Ms. ROLLINS. Yes, we can, we do, and experience has shown that we get it in the form of money paid to identified customers who have been overcharged. We get it in consent orders; we get it in guilty pleas. Yes, we can get this money.

Mr. MARKS. Thank you, Ms. Rollins.

Ms. ROLLINS. Thank you, sir.

Mr. MARKS. Thank you, Mr. Chairman.

Mr. ECKHARDT. I notice, Ms. Rollins, in your letter on page 2 you say, "As of March 31, 1980, the status of the crude reseller audit program was as follows:" Then you list the 441 companies that are listed in all of these cases of crude oil resellers. Then you have "crude resellers currently under audit." That would be the first ones listed here under open cases. Is that correct?

Ms. ROLLINS. Yes.

Mr. ECKHARDT. That is 129. Then it is "number of cases referred to Office of Special Investigations, 44." This is breaking down the 441 into 129 which are merely open cases. An additional 44 are Office of Special Investigations referrals. Is that right?

Ms. ROLLINS. It may not be in addition, Mr. Chairman. What happens is we first begin to work on the civil violation.

Mr. ECKHARDT. It can be overlapping. That is what I am getting at.

Ms. ROLLINS. Yes.

Mr. ECKHARDT. There are 44 cases referred to the Office of Special Investigations and 24 to the Department of Justice. Is there any overlapping between those categories?

Ms. ROLLINS. Yes, of course. We may have a case partially worked. We may have some actions identified that appear to be ready for the grand jury.

Mr. ECKHARDT. Let me get down to this then. A further breakdown, 13 of these 44 cases referred to the Office of Special Investigations are cases involving stripper miscertification issues. Is that right?

Ms. ROLLINS. Yes, that is correct, sir.

Mr. ECKHARDT. Then there are 9 of the 24 cases which are Department of Justice referrals. Are there overlaps there or would that be a total of 22 cases?

Ms. ROLLINS. I am not certain if there are overlaps there. Quite frankly, I would have to go back and check unless Mr. Harvey can tell me now.

Mr. ECKHARDT. Do you know, Mr. Harvey?

Mr. HARVEY. I would like to check on that figure.

[The following information was received for the record:]

No. There is no overlap.

There are a total of 22 cases that involve stripper certification issues, 13 are open special investigations cases and an additional nine cases have been referred to the Department of Justice.

Mr. ECKHARDT. At any rate, what we have in both of those categories is some approximate 20 cases. Is that right?

Ms. ROLLINS. That is correct. I am comfortable with that number, yes.

Mr. ECKHARDT. Then you have 10 audits where there are alleged violations concerning miscertification or noncertification. Of those, are there about three of those which would be with respect to stripper oil. Is that right?

Ms. ROLLINS. Three would be stripper oil tainted; yes.

Mr. ECKHARDT. Is there an overlapping there?

Ms. ROLLINS. I am not certain. I would have to go back and check [see pp. 30 above and 32].

Mr. ECKHARDT. At any rate, we have about 20 companies there in which there is at least the suspicion of possible violation. Is that right?

Ms. ROLLINS. Yes, sir.

Mr. ECKHARDT. Could you furnish this committee with this information rather readily. I am not calling here for a complete audit because I understand that is going to take time.

What this committee would like to know is this: Of those some 20 companies, the ones that fall in these classifications I have described, we would like to know how much of the oil that they resold for the years 1976, 1977, 1978, and 1979 was certified on the one hand in each of those years as stripper oil and how much was otherwise certified?

I think it might be useful also to know precisely what all of the oil sold was certified as because there may be instances where the difference between certification as stripper and other uncontrolled oil would not indicate any intent to violate.

Now I recognize that this would have to be on the basis of the information they supply you, but at least we could get some indication as to whether or not these companies are certifying an accelerated amount of stripper oil, as the chart shows here for the whole universe.

Could you get that for us rather promptly?

Ms. ROLLINS. Yes; we could get it rather promptly. The only difficulty I have is with regard to that which is now within the custody of Justice. I will spend a little time with our special investigations staff and the Justice Department to see if we can make an arrangement to get into records. There is some question of where the records are. If they are being used by the grand jury, there may be some difficulty. I will get back to your staff this

afternoon and let you know if any of these difficulties I foresee in fact exist. I will let you know exactly what it is I can give you. I will give it to you as fast as possible.

[The following information was received for the record:]

Sales of Crude Oil for 1976 through 1979
As Reported by Firm

Firm Name	1976 Sales (BBLS) Excluding Stripper	1976 Sales (BBLS) Stripper Oil	1977 Sales (BBLS) Excluding Stripper	1977 Sales (BBLS) Stripper Oil	1978 Sales (BBLS) Excluding Stripper	1978 Sales (BBLS) Stripper Oil	1979 SALES (BBLS) Excluding Stripper	1979 SALES (BBLS) Stripper Oil
1/ A	0	0	12704230	2891156	14970584	4930703	-	-
2/ B	14218256	2886255	-	-	9528145	9253034	7085990	9175341
3/ C	942985	-	15417150	3625038	7272915	1564466	-	-
(C1)	(548576)		(15417150)	(3625038)	(7272915)	(1564466)		-
(C2)	(394409)							
4/ D	1407123	80175	465101	127210	5464987	587227	4144641	1067401
5/ E	415751	0	4835169	686779	2102790	368586	-	-
F	1958088	108264	10030256	2943706	14623023	5629186	16975200	9699859
G	0	0	257986	32328	9334463	2774001	11453090	6668880
H	1243594	148378	1893331	919087	5313475	803848	11040381	3330350
6/ I	280755	31068	1137751	541271	71796	0	-	-
7/ J	66077	0	87512	0	38684	0	-	-
K	0	0	0	0	6997340	517113	32866308	28989734
8/ L	632797	0	160104	148326	-	-	-	-
9/ M	415990	733	7700866	1140650	9164744	407115	2664614	442616
N	1595617	16937	2303522	230859	1680838	57823	1683631	92997
1/ O	0	18440	0	14840	0	7220	-	-
P	0	0	2168660	609885	13531420	5423058	-	-
10/ Q	109939	0	3375358	170531	5021915	510027	-	-
R	4684178	130894	1907607	413588	62117844	7014951	4387810	1384647
11/ S	0	0	806512	69212	1843075	671181	210637	32449
12/ T	-	-	-	-	-	-	-	-
U	0	36091	9071	29384	8095	26062	1184	4218
12/ V	-	-	-	-	-	-	-	-
W	0	0	0	0	636270	313193	8485951	9666164
X	344502	67175	161059	238893	4756054	920695	6833042	6693801

Note: Information for 1978 and 1979 taken from ERA-69 (Crude Oil Reseller's Self-Reporting Form) Unless Otherwise indicated. Information for 1976 and 1977 taken from Audit Files.

1/ Firm has not filed ERA-69, 1978 data taken from audit files.
2/ Data for 1977 not available in audit files.
3/ Firm has filed ERA-69 for January 1978 only. Action is being taken to obtain filings. Data for 1977 for five months (August through December).
4/ Data for 1977 is for one month (June).
5/ Firm requested stay from filing ERA-69, stay denied. Firm indicated it will file. Data for 1978 taken from audit files.
6/ Firm has not filed ERA-69. In response to action to obtain filings, firm indicated filings will be submitted during week of May 19, 1980, Data for 1978 taken from audit files.
7/ Firm has filed ERA-69 for 1978 and six months in 1979 (January through June). Action is being taken to obtain filings.
8/ Firm has asserted it did not sell crude oil in 1978 and 1979. Followup verification is being taken.
9/ Firm has certified it was not a crude oil reseller in 1978 or 1979. Followup action is being pursued. Data for 1978 is from audit files.
10/ Firm has not filed ERA-69. Action has been initiated to obtain filings. Data for 1978 is for nine months (January through September).
11/ Firm has filed ERA-69 for six months in 1979 (January through June), consequently 1979 data is for first six months. Filings for remainder of 1979 are forthcoming.
12/ Firm has not filed ERA-69. Action being taken to obtain filings. No data available from audit files.

Mr. ECKHARDT. I want you to know that as far as we are concerned—and I think I can speak reasonably well for the subcommittee—what we are primarily concerned with is the offense and who appear to be the offenders. The bottom line there which comes from your first sale data, which you say is the most accurate, does not show marked differences from historic practice.

One would expect stripper oil to remain on a fairly even curve since the passage of the act and an upward curve because there are certain reasons why you might have more stripper oil in proportion to other oil as wells tend to run out. However, that is also offset by the fact that when a well goes out altogether, it ceases to be stripper altogether.

Of course, this is also affected by the fact that you deal with this by property. There is going to be a long period of time when we have a very significant amount of stripper oil in this country. That is the reason we are so concerned with the stripper question.

The chart there would indicate that the miscertification is not with the producer since the lower curve indicates a relatively straight line curve. If there had been improper certification, it would appear that it occurs somewhere between the producer and the refiner.

That is the reason I would like to see us hone in on these some 441 companies. That is not a very great number, considering your great task in policing the stripper and other oil problems respecting the literally tens of thousands of producers in the country. I suppose there are more than 10,000, aren't there?

We are only talking about 441 companies. We have most of the evidence pointing to at least possible cheating directed to 441 companies.

Frankly, our committee is interested in working with you to solve this problem. I think we are jointly concerned with the question of identifying where $1 billion in excess of what we would have expected to be the cost of stripper oil has gone.

You have attempted to explain it, but I think in your explanation you also agree with us that there is an area of possible—and I think I could go a little stronger than that and say "likely"—miscertification. Do I misstate your position?

Ms. ROLLINS. No; you do not misstate my position, Mr. Chairman.

We certainly have found during the past 2 or 3 weeks when we have been working very closely with your staff an intention on their part—and I hope you have found an intention on our part—that we work together in getting to the bottom and identifying what should be returned to the American public, and doing that as fast as possible.

Mr. ECKHARDT. I am particularly concerned about this because I have been working with Lincoln Moses with respect to getting up-to-date information on your first chart. I know that your office has worked out a process by which the calculations—that is, predicted data—have been verified at a quicker time. We were concerned about not having information soon enough to detect misreporting. I understand your office has worked on that and is now giving us data rather currently on the bottom line, on the production line.

However, on the question of refinery acquisitions, it seems to me important that we be assured that the information we are getting

is reasonably accurate because it does not mean a thing if we are merely keeping the producer from getting additional money. The point is do we protect the consumer at the end.

If within this segment of 441 resellers we are losing the advantage of the control as far as the consumer is concerned, all our efforts go to naught. That is our concern. I imagine it is yours, too.

Ms. ROLLINS. Of course it is, Mr. Chairman.

Mr. ECKHARDT. Now with respect to the five cases you mentioned for the 1979 period, that is the 1979 period but not with respect to stripper; is that right?

Ms. ROLLINS. That is correct. It is only cases in the Office of Special Investigations that there are three, as I recall. I really would like to clear this up for the record. It is obvious that I am confused and was confused in my briefing. I thought we had miscertifications, stripper, both on the civil and the special investigations side. It would appear that I misstated the fact. I would like to provide that for the record.

[The following information was received for the record:]

At present, 5 of the 39 open special investigations of crude resellers include inquiries for stripper oil certification violations after January 1979.

Mr. ECKHARDT. Mr. Marks?

Mr. MARKS. Thank you, Mr. Chairman.

Ms. Rollins, the two data series depicted on the graph were made public after a time lag of a few months. For example, it is now April and we have figures up to January.

Ms. ROLLINS. That is correct.

Mr. MARKS. The discrepancy has been obvious, however, since January 1979, a period of approximately 15 months. My question to you is this: When did DOE enforcement personnel become aware of the discrepancy?

Ms. ROLLINS. I cannot tell you when DOE enforcement personnel became aware of a discrepancy between these two data series. I started out by saying one lesson I have learned here in this preparation for the hearing and with regard to the interest of the committee is that this failure to exchange programmatic data with the enforcement staff is something that I intend to correct.

When did the enforcement staff first recognize the trend to miscertify? The day it became an economic advantage to miscertify. That has always been the case.

When were they aware of the fact that stripper was No. 1 on the "Hit Parade"? I suspect it was the day stripper price became the top price at market clearing. I don't know.

Enforcement and Special Counsel, perhaps you would like to speak more personally.

Mr. HARVEY. That pretty much states it. When a firm is going to miscertify, it is generally looking for the highest market price. There are all different types of certification violations out there. They can go from lower to upper tier, lower to stripper, lower to imported and even upper to controlled. The type of certification violation does tend to be influenced by the market price. We did recognize it early and have, I think, done a reasonable job adjusting into this new period with the 50 audits dealing with 1979.

I might say that our citations for crude resellers who violated our regulations, the 25 NOPV's referred to earlier totaled almost a

quarter of a billion dollars, including stripper oil violations. Granted, the majority of the quarter of a billion dollars deals with years prior to 1979.

Mr. CORRALLO. Mr. Marks, you did not have to be a gypsy in 1978 to see that the price span between stripper and controlled was starting to open up substantially. Early in 1978, the Special Counsel's office spent a substantial amount of time in efforts aimed at identifying two major producers that we thought were at the producing end improperly categorizing production of crude oil as stripper. In mid-1978 we made a referral to the Department of Justice, citing that violation and suggesting that appropriate action should be taken.

At the beginning of 1979 we factored into our second tier audits, a substantial effort to identify the four or five major refiners who were involved in the crude reselling activity area. Those audits are underway now and were intensified at the beginning of 1980. We have seen the problem in our office at least since 1978. There simply was an economic advantage so great there that it was going to indicate the opportunity to make mischief. We have been looking at that.

Mr. MARKS. Ms. Rollins, would you consider these resellers' certifications so egregious as to be in fact criminal, that is, a willful, deliberate intent under the law?

Ms. ROLLINS. I spent a few years prosecuting. It is a question of being able to prove intent. You can see the growth of the activity of the Office of Special Investigations. That means we tend to be looking more and more for willful violations. I hate before a record is put before me to characterize any action. I simply would say that the trend of, and our enforcement efforts are to look for and refer more cases to Justice on the enforcement side, certainly.

Mr. MARKS. Thank you, Mr. Chairman.

Mr. ECKHARDT. Mr. Corrallo, you said I think in statements we have received that Coastal, Charter Oil, Koch, Champlin, and Tesoro are integrated oil companies; are they not?

Mr. CORRALLO. They are, sir.

Mr. ECKHARDT. They produce, I understand, stripper oil and run some of their own and probably run some other.

Mr. CORRALLO. I am not sure whether all of those are producers of crude oil. Some of them may have some crude oil.

Mr. ECKHARDT. At any rate, all of them acquire crude oil and resell it to other refineries as well. Is that right?

Mr. CORRALLO. That is correct, sir.

Mr. ECKHARDT. Now these are five that are within your jurisdiction. You deal with the majors in the Office of General Counsel; do you not?

Mr. CORRALLO. Special Counsel.

Mr. ECKHARDT. Special Counsel.

Could you get us information similar to that I asked of Ms. Rollins concerning these companies? I would like to have this information:

No. 1, how much oil did they produce or purchase in each of the various categories of pricing or classification and how much did they sell in what categories during the years 1976, 1977, 1978, and 1979? Is that clear?

Mr. CORRALLO. Yes, sir.

Mr. ECKHARDT. All these companies have at least been in the position of being suspect in this area of how they are treating classification, similar to the 20 to which we were referring before that are under the jurisdiction of the Office of Enforcement; is that correct?

Mr. CORRALLO. They have in terms of volume the most substantial reselling activity of any of the major companies that are subject to our audit. On the basis simply of volume——

Mr. ECKHARDT. I see, but it is not necessarily that they are suspected of miscertifying.

Mr. CORRALLO. That is correct.

Mr. ECKHARDT. At any rate, within this area we would get some kind of a sampling at least of what the big resellers are doing. Is that right? I would like to see whether there is a trend there. That is what I am after.

Mr. CORRALLO. I will try to get the data for you. I simply do not know if the audit is along enough to develop this but, if it is not, I will let your staff know just how long it would take to get this information.

[The following letter and attachments was received for the record:]

Department of Energy
Washington, D.C. 20461

June 11, 1980

Congressman Bob Eckhardt
Committee on Interstate and
Foreign Commerce
1741 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Congressman Eckhardt:

On April 18, 1980, I testified before your Subcommitte on Oversight and Investigations concerning stripper well crude oil production. During that testimony you asked me to attempt to gather information for submission to the Subcommittee concerning sales of stripper well crude oil by five major refiner companies which I had identified as having engaged in crude reselling activity. You further asked for the amounts of stripper well crude oil acquired for refining by four major refiners for the years 1976-1979. Attached, in question and answer form, is the information which my office has been able to obtain since my testimony. You will note that we have had some difficulty in obtaining the information you requested from some of the major refiner crude resellers. In some cases, this difficulty has manifested itself by absolute refusal to provide the information and, in other cases, substantial delay in acquiring this information.

As I indicated to you in my testimony, it is important to note that this is not information which OSC personnel would normally collect in the process of auditing a major refiner. Accordingly, the information that we have obtained for you is unverified and unaudited.

If I can be of further assistance, please feel free to call me.

Sincerely,

Carl A. Corrallo
Solicitor to the Special Counsel
for Compliance

Attachment

cc: Hazel Rollins

Question

The amount of old, new, and stripper oil produced, purchased and sold by Coastal, Charter, Koch, Champlin and Tesoro for the years 1976, 1977, 1978, and 1979.

Answer

Coastal has provided us with a written response to our request for information, a copy of which is attached.

Charter advised us that they could not process audit data requests and obtain data responsive to this request at the same time. They indicated that they would attempt to secure the data as soon as possible.

Champlin indicated that they would provide no information unless subpoenaed to do so.

Koch initially advised us that they would provide us with the requested data, but have since indicated that no information will be forthcoming for some time.

Tesoro - see attached chart for requested information.

The Coastal Corporation

Coastal Tower
Nine Greenway Plaza
Houston, Texas 77046

June 6, 1980

Carl A. Corrallo, Esq.
Solicitor to Special Counsel for Compliance
Department of Energy
12th and Pennsylvania Avenue, N.W.
Washington, D. C.

RE: DOE Request for Information

Dear Sir:

On May 13, 1980 the Coastal Corporation received DOE Request for Information No. 80-5-7 which sought information regarding production, sales, and purchases of "old, new, and stripper oil" by the Coastal Corporation and its subsidiaries in each of the years 1976 through 1979. Since the Coastal Corporation is a holding company which does not engage in any of these activities, it was assumed the request applied to subsidiary companies.

The request listed an "ASAP" due date and stated that it was to be given priority over other Office of Special Counsel requests. Since the Coastal Corporation was in the process of compiling the information necessary to respond to other DOE requests for information which also stated that they were to be accorded priority treatment, we sought guidance from the Office of Special Counsel concerning the manner in which the requests were to be processed. We were advised of the urgency of this request, in that it emanated from a Congressional subcommittee on oversight and investigation, but were told that the other requests were equally important to the DOE and that we should attempt to respond as quickly as possible without interfering with the compilation of other requested information.

As we began processing your request, we discovered that the Coastal Corporation did not maintain, nor did the DOE regulations require, records covering the entire period in question, compiling information regarding production, sales and purchases of crude oil by tier classification.

Since compiling the data from original source documents could not have been completed within the time constraints imposed by your office, it was concluded, based on the assumption that a

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rapid response was required, that a more appropriate course would be to extract and combine information deemed relevant from reports previously filed with the DOE. We have listed the derivative reports in the response.

Several factors should be considered in analyzing the data provided. First the reports from which the figures were derived contain definitions governing the characterization of information to be reflected on such forms. These definitions vary from form to form, and, of course, we had no way of knowing which, if any, of these definitions you had in mind in drafting the request. Secondly, because of the methodology utilized in the extraction, combination, and definitional phases of gathering this data, we can make no representations as to its appropriateness for your purposes. However, we believe it is sufficient.

We were unable to locate a report which contained information covering our 1979 production, and consistent with the tenor of instructions from your office, we did not reallocate our resources to develop this data. However, you will note that such production volumes are relatively insignificant.

We will, of course, be willing to provide additional data, should that become necessary.

Very truly yours,

Robert G. Holsclaw

Robert G. Holsclaw
Assistant Controller

RGH:mkg

RESPONSE TO REQUEST 80-5-7

*1) Production	Old	New	Stripper
1976	1,039,000	1,258,000	437,000
1977	791,000	880,000	185,000
1978	770,000	962,000	351,000
1979	-	-	-
**2) A. Purchases			
1976	12,255,005	6,426,583	2,535,608
1977	10,142,606	7,531,121	4,180,218
1978	9,051,383	8,608,259	5,235,171
1979	15,927,448	17,969,194	31,550,569
3) B. Sales			
1976	4,589,330	2,099,645	524,256
1977	7,089,347	3,722,624	1,769,985
1978	6,773,240	5,357,563	2,681,668
1979	14,952,830	15,210,808	28,383,419

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* Figures were extracted from Schedule 5241 of EIA-28. The 1979 EIA-28 is yet due and therefore the requested production analysis for 1979 is not available.

** For 1976 and 1977 the purchases and sales volumes reflect extractions from the FEA P-124 M-D reports previously filed and in the possession of the Department of Energy, as well as previous correspondence with that agency.

For 1978 and 1979 the old and new crude oil purchased volumes reflect a combination of volumes reported on the schedules filed with Forms ERA-49 and ERA-69. Sales volumes for the same period were extracted from the Forms ERA-69, already in the possession of the Department of Energy.

TESORO PETROLEUM CORPORATION
Crude Oil Production, Purchases, Sales

	1976	1977	1978	1979
		BBL's		
Old Oil				
Produced	653,000	585,000	223,000	124,000
Purchased	30,317,000	22,683,000	18,239,000	16,412,000
Sold	18,419,000	14,864,000	15,439,000	15,705,000
New Oil				
Produced	515,000	478,000	119,000	103,000
Purchased	24,793,000	30,791,000	26,361,000	16,250,000
Sold	17,652,000	22,043,000	21,029,000	11,710,000
Stripper Oil				
Produced	480,000	502,000	498,000	323,000
Purchased	2,786,000	4,478,000	7,139,000	26,547,000
Sold	1,499,000	1,863,000	3,529,000	16,130,000
Total				
Produced	1,648,000	1,565,000	840,000	550,000
Purchased	57,896,000	57,952,000	51,739,000	59,209,000
Sold	37,570,000	38,770,000	39,997,000	43,545,000

Question

The amount of stripper oil acquired for refining purposes by Exxon, Shell, Texaco and Mobil for the years 1976, 1977, 1978, and 1979.

Answer

Company	1976	1977	1978	1979
Exxon	1,314,236* (*Estimate Feb-Dec 1976)	17,017,856	16,944,466	19,986,852
Shell	7,659,858	19,458,277	25,780,510	27,356,133
Texaco	5,534,924** (**Sept-Dec. 1976 only)	18,029,399	20,227,107	20,760,760
Mobil	23,487,727	26,128,452	27,799,673	29,822,414

Question

For the 15 major refiners: the dollar amount in violations associated with stripper well misclassifications.

Answer

The following are violations of DOE regulations involving stripper well exemptions publically alleged in DOE enforcement actions.

ARCO - for the period 9/73 - 12/76: $4,281,684.39

Gulf - for the period 9/73 - 12/77: $105,847,690.05

Chevron - for the period 9/73 - 12/76: $11,979,454.41

Marathon - for the period 9/73 - 12/76: $9,890,184.06

Sohio - for the period 9/73 - 12/76: $5,366,180.98

Texaco - for the period 9/73 - 12/76: $10,968,472.28

Amoco - for the period 9/73 - 12/76: $35,870.46

Exxon - for the period 9/73 - 12/76: $3.3 million

Phillips - no alleged violations of stripper well exemptions.

Cities - for the period 9/73 - 12/76: $542,337.55

Conoco - for the period 9/73 - 5/79: $5,634,458.02

Ness - for the period 9/73 - 5/79: $7,661,177.03

Mobil - for the period 9/73 - 12/76: $115,870.78

Shell - for the period 9/73 - 5/79: $1,603,094.41

Sun - for the period 9/73 - 5/79: $48,655,661.92

[The following information regarding Charter Oil Co. was submitted by DOE by letter dated September 26, 1980.]

Mr. ECKHARDT. I am asking something much less than an audit.

Mr. CORRALLO. I understand.

Mr. ECKHARDT. An audit, of course, would determine whether or not they have properly certified. It should not be very difficult to find out what they did in fact certify.

I recognize what I am asking both of you for is not necessarily information that would convict. The mere fact that there has been an increase in amount of stripper oil purchased or so classified does not necessarily mean it is miscertified, but it might at least lead us to an area in which we should make further investigation into the possibility of miscertification.

Do you have any other companies that have come into this group because of your examination of the 1979 situation?

Mr. CORRALLO. No, sir. These five were all identified in January of 1979 in our regularly scheduled review of our audits plans and were identified primarily on the basis of volumes of crude oil resold as opposed to any particular——

Mr. ECKHARDT. Are you auditing the 1979 time period now or just the previous period?

Mr. CORRALLO. The audit plan calls for a primary focus on the 1973 to 1976 period, but in the crude oil and with respect to the crude reseller area we are attempting in this calendar year to bring that up through 1979 and 1980. It is contemplated that we are going to be looking at the current periods as well.

Mr. ECKHARDT. Certainly this subcommittee is very interested in your following through at the period after the last quarter of 1978 because that is where the charts indicate there is at least the suspicion of miscertification.

How soon do you think you can get into that auditing with respect at least to stripper oil?

Mr. CORRALLO. May I elaborate just a little bit?

In our review of the major refiners, stripper miscertification can come in two possible time frames. It can come at the actual production stage where the producer or major refiner actually produces the crude oil and then tries to categorize the property as stripper or it can come somewhere down the line as a result of the major refiner involvements, say, a reselling activity or simply a straight flip at the refinery where he buys it, he has old oil, and he just calls it stripper and tries to run it through his cost formula.

In our original top 15 audits on the production side we got into the 1979 period. Quite frankly, our review discloses facts very similar to the bottom line of the first purchaser report. We did not see a lot of unusual stripper well production activity among the major refiners.

We have not looked at the resellers—nor are we doing so now—so we really do not have a fix on what that information shows.

In the context of the refinery side, we examined the appropriate costs that are run through in the normal course of business. We have not seen a substantial amount of activity involving straight flips. If it's any place, it seems to me it has to be in this reseller activity.

Mr. ECKHARDT. That is what we want you to hone in on. We would like for you to get us information and do the auditing as soon as you can with respect to that area.

I know something about this thing because I have been associated with it for a time. The thing about it is that the producer has a physical property that is checked by several different agencies—for instance, in Texas by the Texas Railroad Commission.

There is considerable knowledge on the part of the Texas Railroad Commission as to the capacity of wells, as to the areas that are producing, as to the properties and the definition of properties, as to the reservoirs, et cetera. That is because it has been associated with many other programs, like the proration that existed in Texas over many years, and still does. It is more or less theoretical now because they are mostly producing at about 100 percent of their actual capacity.

However, the thing is that the producer has a tangible check on whether or not he is cheating. The person who buys oil and mixes it with other oil of exact, identical content has a fungible product which he may call stripper or not stripper. You cannot look at the oil and tell which it is. You can look at the field and tell what is stripper oil.

That is where I think we need to hone in in attempting to find out whether or not there is cheating. That is what I am suggesting you audit first.

The same thing would be true of the others that are not majors that come under the Office of Enforcement.

I think it is rather remarkable that the curve has remained pretty even with respect to those literally tens of thousands of producers. It speaks pretty well for both your efforts and those of the State regulatory agencies and, indeed, for the producers themselves.

If there has been cheating, it has been at a regular rate, we may say.

Mr. CORRALLO. I might point out that in some of the enforcement actions that we currently have underway we have identified some violations associated with stripper well activity through the 1973 period that are essentially disputes that will continue, so we have not seen anything new recently.

Mr. ECKHARDT. Looking at your whole experience, isn't it correct that the Office of Special Counsel has not issued any civil enforcement documents or made any criminal referrals to the Department of Justice involving cases where old or upper tier oil is certified as stripper?

Mr. CORRALLO. Taking your question as broadly as I think you meant it, I would say no, that is not the case. We have made referrals.

Mr. ECKHARDT. What is the case then?

Mr. CORRALLO. We have made at least one referral to the Department of Justice in which two major crude oil producers were charged with miscertification.

Mr. ECKHARDT. That was the case, was it not, where you had a producer that was trying to calculate the figure to be divided into the total production of the property which included injection wells?

Mr. CORRALLO. No. It included what we considered to be nonproducing wells or abandoned wells that were brought back on in our view for the specific purpose of getting the average production of the property down below the 10-barrels-a-day level.

Mr. ECKHARDT. No. 1, you had a producer involved.

Mr. CORRALLO. That is correct.

Mr. ECKHARDT. You did not have a reseller.

Mr. CORRALLO. That is correct.

Mr. ECKHARDT. No. 2, you had a situation in which the argument was based on how many wells should be used in order to calculate average production per well.

Mr. CORRALLO. That is correct.

Mr. ECKHARDT. There was an argument on both sides of that issue.

Mr. CORRALLO. There is always an argument on both sides of issues.

Mr. ECKHARDT. But I mean it was not simply a question of whether someone was lying; it was a question of whether or not the facts as all admitted them to be constituted a proper application of the law. Isn't that right? Or essentially that? I am sure there must have been differences in factual contention on the periphery of the argument.

Mr. CORRALLO. Yes. You are absolutely right in that the focus of the referral was at the production end and the calculation under the regulations. That is absolutely correct.

Mr. ECKHARDT. But there have not been any reselling cases?

Mr. CORRALLO. No. As I said, the only reselling activity that we identified in 35 major refiners that we are auditing have been in the 5 that I mentioned earlier and that part of the intensified audit that began in January 1980. You are absolutely right, we have not made any referrals or initiated any enforcement actions on the subject of reseller activity involving a misclassification of the lower tier oil into any category, stripper or anything else.

Mr. ECKHARDT. That is the reason I very much want the information I have asked you for. If we do find, even if it is limited to a few companies, something that follows this kind of curve, I think we need to dig into it much more deeply.

Mr. CORRALLO. We have about 8 months of work on it. It may very well be that the information is readily available. If not, we can expend some resources to make it available.

Mr. ECKHARDT. Now has any individual served as much as 1 day in jail for any type of willful violation of DOE petroleum price and allocation regulations?

Mr. CORRALLO. The answer to that, I think, is no. The answer is partly explained by the fact that under the statutes until 1975 there was no imprisonment penalty associated with the criminal violation of price and allocation regulations. It was a misdemeanor.

Mr. ECKHARDT. I have no great thirst for putting a capitalist in jail.

I think they are probably more uncomfortable than ordinary criminals because they are less used to it. Yet, it would seem that there must be some persons within this white-collar crime category for whom it might serve a good purpose to make some try at it.

Mr. CORRALLO. I will keep looking.

Mr. ECKHARDT. Mr. Harvey, on your present audit program are you getting into 1979 at all?

Mr. HARVEY. Yes, sir, Mr. Chairman. As I mentioned, we have today 129 open audits of the crude resellers.

Mr. ECKHARDT. Are those going on into 1979?

Mr. HARVEY. Yes, sir. Fifty of those will extend into or are into the 1979 period.

Mr. ECKHARDT. What about the rest of them, do you intend to get them into the 1979 period?

Mr. HARVEY. Yes, sir. Eventually all of the crude reseller audits, especially those that have shown certification violations, will be extended into 1979 and, for that matter, into 1980.

Mr. ECKHARDT. One difficulty with this whole operation here is that we have been purporting to control the price of oil since about the beginning of 1976. There comes a time when people get disinterested in enforcing the law, when the law actually plays out. I am afraid we have a lot of people in the oil industry who are playing for time, particularly since the President on June 1 of last year has begun to accelerate the period of time for removing control. Actually, of course, as you know, the move to composite price has a legally determining factor for control.

Therefore, if you do not get on this pretty fast, I am afraid the Government is going to lose interest, and the possibly billion dollars that has been taken from the consumers' pockets is going to be lost forever without any action being taken against those who conceivably stole it.

Mr. HARVEY. Mr. Chairman, I think with regard to playing for time, it is my belief that the crude resellers are going to lose that game.

Mr. ECKHARDT. I hope so.

Mr. HARVEY. I might add why.

Mr. ECKHARDT. That's like saying the croupier is going to lose the game at Las Vegas.

Mr. HARVEY. Let me explain a little bit about the 50 open audits that include periods in 1979.

When we open up a new audit today, we start at the beginning when controls were first started, and work the audit up to the current period. If we were opening an audit today, we would audit through April 1980. At any point in time when you take a picture of our open inventory, you will have audits with various audit periods. When an audit is opened, the ending month for the audit period is generally the month preceding the auditors internal visit. This is necessary to permit the gathering of records for a specific period of time. That does not preclude one from opening up what would, in essence, be another audit or an extension of that audit to cover later periods of time. That is why when you look at our inventory it is broken out by audit periods.

Mr. ECKHARDT. Ms. Rollins has very correctly stated that you are limited in personnel. I think sometimes we engage in a rather questionable choice of order of spending of money when we try to avoid inflation by decreasing enforcement personnel.

Actually what we are talking about here is a fifth of the same impact that was thrown upon the economy by the tilt rule in May of last year. That was about 5 cents on gasoline. Of course, that dealt with gasoline. That was about $5 billion.

We are talking here about $1 billion. That is not within the rule of de minimis with respect to the effect on inflation. You can hire a lot of people for a lot less money than that and enforce the law.

I am just suggesting to you that maybe what you need to do is try to find where your attention should be directed. I have suggested one means with respect to the 20 somewhat perhaps suspect companies.

Would it not also be useful to find out in which of the 441 companies—I have not asked you for that now because it might take some time—in how many of those companies there has been such a marked increase in sale of stripper oil? Might that not help you point out who ought to be audited first?

Ms. ROLLINS. Yes.

Mr. HARVEY. I think so, sir.

Mr. ECKHARDT. I would direct your attention to that possibility.

Ms. ROLLINS. Mr. Chairman, we will undertake to do just that kind of preaudit look at the resellers and get that information back to you. It is an obvious and well-made point.

[The following information was received for the record:]

The audit has not progressed far enough for us to provide the requested information. The data will be provided regularly as it becomes available.

The following list is based on data obtained by the Subcommittee from DOE.

STRIPPER OIL SALES BY
RESELLERS WITH 1979 SALES
OVER 1,000,000 BARRELS

Company	Percentage Change From 1978 to 1979
Langham Petroleum	2217.0 %
Mellon Energy Products	3319.68%
Koch Oil Co.	60.02%
Occidental Oil & Gas Co.	-5.94%
Merit Petroleum	6081.90%
Horizon Petroleum	944.94%
The Coastal Corp.	958.42%
Revere Petroleum Co.	--
Tesoro Crude Oil Co.	240.17%
Engelhard Minerals	533.21%
Dorchester Gas Corp.	472.72%
RFB Petroleum	488.80%
Western Crude Oil	26.58%
Hideca Petroleum Corp.	7066.50%
Questor Petroleum Corp.	5087.41%
Alliance Oil & Refining	830.51%
Brazoria Energy	2986.33%
Herndon Oil & Gas	70.97%
Elk Trading Co.	1146.70%
Bigheart Pipeline	-6.92%
Deutche Corp.	10.46%
Southwest Petrochem, Inc.	338.67%
Houston Oil & Ref.	--
Petroleum Products, Inc.	615.68%
Magna Energy Corp.	--
Dane Energy Co.	--
Phoenix Petroleum Co.	--
Armada Petroleum Corp.	5.91%
Petrade Internat'l.	1105.92%
Tomlinson Petroleum	--
McAuley Oil Co.	2553.04%
Gulf States Oil & Ref.	1015.33%
Beta Energy Corp.	--
Pel-Star Co.	1235.42%
Mesa Pipeline Co.	9.56%
Intercontinental Oil	311.52%

Company	Percentage Change From 1978 to 1979
Port Petroleum, Inc.	10,963.71%
Concord Petroleum	--
Basin, Inc.	97.54%
Independent Oil Producers	5.06%
Andrus Energy	--
Gen Crude Oil Hydroc.	113.92%
Howell Industries	2475.94%
MAPCO Internat'l.	1061.51%
Kaiser Alum. Intr. Corp.	116.26%
Amorient Petrol. Calif.	815.32%
Thomas Petroleum	336.14%
National Hydrocarbons	--
UCO Oil Co.	-52.87%
Tru Oil Purchasing	43.39%
Clear Creek, Inc.	5.07%
Carbonit Houston	-80.11%
Mid-Plains Petrol. Co.	4370.88%
Brio Petrol. Co.	184.06%
Central Crude Corp.	2996.58%
Century Resources Dev. Co.	1120.08%
Osage Oil & Trans, Inc.	28.97%
Harbor Petrol., Inc.	--
Jack Holland & Son	33.86%
Bi Petro, Inc.	-49.51%
Hydrocarbons, Ltd.	639.60%
Doma Corporation	81.77%
Transco Trading Co.	2828.09%
CPI Oil & Ref.	159.25%
Marion Corporation	448.19%

Ms. ROLLINS. I would like to correct a misimpression I placed on the part of the chairman with regard to my statement about the enforcement staff. You will recall during the last budget cycle, there was a plan to reduce the enforcement staff very dramatically. During the summer, the administration reexamined its position on what should be happening with enforcement and in fact gave enforcement a very fat complement. We are now just about up to the level we were when I left the Government last spring. I never meant to imply that there had been a taking away of enforcement staff. In point of fact, its position has improved greatly.

There was at one time a plan to reduce the enforcement staff to about 252 people by the end of this fiscal year. That is not the case today.

Mr. ECKHARDT. About the time that happened we had our gasoline hearings last summer.

Ms. ROLLINS. That is just about the time it did happen, Mr. Chairman.

Mr. ECKHARDT. I hope it did have a little influence on the OMB, who I understand was talking about firing anybody who hired more staff for enforcement.

Ms. ROLLINS. We are all here today.

Mr. ECKHARDT. OMB is "Office of Managing the Budget," isn't it?

Ms. ROLLINS. That is correct.

Mr. ECKHARDT. Would you feel that we were imposing on you too much if we should ask you for a monthly status report with respect to the auditing process?

Ms. ROLLINS. I would not feel that you were imposing on me at all, Mr. Chairman. It will represent a very fine discipline. I would be happy to provide that to you.

Mr. ECKHARDT. That would be especially with respect to reselling activities with respect to stripper oil, and with special emphasis on the 1979 period.

Ms. ROLLINS. I understand.

Mr. ECKHARDT. There is one thing that I think needs to be understood. That is, there is not much incentive, as I understand it, for a refiner to question the price of oil, to question its certification. Under the entitlements program the refiner comes out just about as well, not altogether as well perhaps, if he buys high-priced oil or if he buys low-priced oil. Is that a fair statement?

Ms. ROLLINS. I would perhaps not phrase it in that way, but I would tend to agree with you, Mr. Chairman. Yes, that is fair.

Mr. ECKHARDT. If the refiner is also a reseller, Mr. Corrallo, he may be induced for other reasons than his refining and producing to miscertify. For any refiner it is no advantage or disadvantage to buy oil at a higher classification. Is that reasonable to say that?

Mr. CORRALLO. The purpose of the entitlements program, which I am not an expert in, is to distribute the benefits of low-priced oil.

Mr. ECKHARDT. That is right.

Mr. CORRALLO. It takes the incentive away——

Mr. ECKHARDT. I am very familiar with that because when we drafted that program what we were confronted with was the contention that, for instance, east coast refiners were purchasing oil which came in by sea whereas midcontinental refiners were buying a lot of oil that was old oil and was therefore cheaper. Rather than

ship an equal quantity of old oil to the east coast and an equal quantity of imported oil, say, to Tulsa, Okla., we simply made it come out that way. That essentially is what the entitlements program amounts to as its original reason. It has been stretched a good deal from that purpose in the meantime.

Mr. CORRALLO. It is a dynamic program.

Mr. ECKHARDT. I think we are facing the greatest stretching right now with respect to turning an import fee into a gasoline tax through the entitlements program, but that is beside the point.

What about this proposition? Ms. Rollins, perhaps you would be the best to respond. I assume that refineries have had a somewhat even proportion of stripper oil. Some of them are high and some are low, but in a given company over the entire refining operation of a company such as Shell, Exxon, Texaco, Mobil, or some of the big ones the proportion ought to run about the same over a given period of time. I do not mean the same as between companies, but approximately the same proportion within a company.

Do you know the answer to that or would you be able to ascertain it for us?

Ms. ROLLINS. I do not know the answer offhand. I was thinking right away of anecdotal things. I know of a few companies that are tied to stripper for, say, their production of specialty oils and the like but I think that confuses the equation you are trying to draw.

Mr. ECKHARDT. In the big companies that sort of thing would tend to even out. For instance, a refinery like Exxon might use more stripper oil in some midcontinental refinery and less, say, at the Baytown or the Bayonne refinery.

Over its whole operation I would like to know whether this runs fairly even for a given company. Maybe Mr. Corrallo could help with that inasmuch as that is within his special concern.

If we could get some figures showing how that has run through the period that I have described——

Mr. CORRALLO. You are asking, Mr. Chairman, so I am clear about this, for the mixes that they are actually refined into petroleum products?

[The following information was received for the record:]

Information was requested from the Office of Special Counsel that is not routinely obtained in the course of Special Counsel audits, since the information has no direct significance in the calculation of maximum lawful prices. However, the Special Counsel has undertaken to solicit such information from the refiners and will be providing this information to the Committee when available.

Mr. ECKHARDT. I am talking about acquisition, refiner's acquisition. That ought to be pretty easy to get.

What I am concerned about is this: It might be we could put a little incentive on the refiner to stop the cheating—not for them to stop cheating but for them to curb cheating by others. They have no incentive now because they are going to be taken care of by the entitlements program.

Suppose we denied them the treatment of the acquisition of high-priced stripper oil if their percentage markedly rose from that which was their average. I am not saying here that they are necessarily guilty, but this would give them a little incentive to be assured that those who sell to them are not cheating.

I put a lot more faith in economic incentives to enforcement than I do in legal incentives to enforcement.

Mr. CORRALLO. I would like to speak to one phenomenon of which I am aware.

Although I think it is diminishing as we get closer to decontrol, the major refiners in terms of their own exploration and production activity, it seems to me, have tended to skew somewhat their investments in domestic crude production properties that will permit them to recover, obviously for economic reasons, the highest rate of return. Stripper well properties have become very profitable ventures. I think completely in good faith and without any mischief whatsoever, we have seen some major refiners who are shifting that exploration and production program toward developing or redeveloping old fields or even outright purchases of stripper well leases that would result ultimately in an increase of stripper well crude oil running through their system.

Mr. ECKHARDT. We have two policies involved there. One is, of course, to keep the price down. Another is to try to get the last drop out of these fields.

That is the reason I offered the stripper well amendment in the conference committee. At least I offered the amendment that passed. I felt it was important to get the last drop out. I thought that was much more important than to extend to get new oil because the new oil will always be there but once a well is capped the stripper oil is lost.

I understand that some incentives to fully work properties are desirable. For instance, I understand your rules at one time were changed to permit a property not to be conceived of merely as a geographic area but to be associated with a reservoir, so that if you had stripper wells at shallow depths you would not have a disincentive to drill on that same geographic property into a new stratem. You could treat the two separately and treat the property as associated with the given reservoir. I think I am correct about that.

Mr. CORRALLO. That is correct. I do not want to be misunderstood. I was not suggesting that as a policy matter I had a quarrel with that. I was explaining that when you see the figures, and if you do see an increase in stripper well crude oil, at least one possible explanation for it is that there has been a significant economic incentive that has been taken advantage of by the major refiners to get more stripper well crude oil through their own production operations.

Mr. ECKHARDT. Well, the calculation, of course, being the average production in a property falling below 10 barrels per day could be circumvented by some gerrymandering of the property. I do not know whether that can be done legally or not. Can it?

Mr. CORRALLO. It cannot be done legally, I don't think.

Mr. ECKHARDT. Can it be done illegally?

Mr. CORRALLO. Apparently there are at least some people who dispute that. There are two sides to that argument as well.

Mr. ECKHARDT. There would be greater incentive to do that today with stripper oil at around $36 a barrel than there was when it was around $20.

Mr. CORRALLO. Absolutely.

Mr. ECKHARDT. What are you doing to watch out for that possibility? That would, of course, relate to the producer.

Mr. CORRALLO. That is correct, sir.

The stripper well certifications—the word tends not to be a term of art in my vocabulary. I would say anything that is stripper well crude oil that should not be, I consider it miscertified.

However, in the production area that has been one of the three major elements of the Special Counsel's crude production audits since 1977. Indeed, a substantial amount of the crude oil production violations that we have asserted to date involve substantial questioning of sales of crude oil as stripper well by some of the biggest companies in the United States.

Mr. ECKHARDT. We would very much like to have, if you could prepare it for us and perhaps you already have it, some kind of summary of what has been done in that area and what you have discovered.

Mr. CORRALLO. What I will be glad to provide is this: I can adduce from all the crude oil audits that we have done of the major 15 refiners, those dollar violations associated with stripper well misclassification, either because of the way they counted wells or the way they computed their average daily production. I would be glad to supply that for you.

[The following information was received for the record:]

The information of dollar violations will be forwarded to the committee when available.

Mr. ECKHARDT. I feel a little bit guilty in having offered that bill if it is being abused.

Mr. CORRALLO. I do not think that is justified.

Mr. ECKHARDT. I want to be assured that the enforcers are making it work.

I think it is fairly tight with respect to producers with any kind of reasonable enforcement because the violation is evidenced by physical fact. However, in the case of resellers this is not the case.

Mr. ECKHARDT. Without objection, I would like to keep the record open for all the documents that have been requested here.

Without objection, I also would like the record to be kept open for my March 10 letter to Secretary Duncan, and Ms. Rollins' April 4 letter to me to be placed in the record.

[The letters referred to follow:]

DOE EDWARDS, TEX., CHAIRMAN
JOHN D. DINGELL, MICH.
ALBERT G. NE, JR., TENN.
PHILIP R. SHARP, IND.
ANTHONY TOBY MOFFETT, CONN.
ANDREW MAGUIRE, N.J.
EDWARD J. MARKEY, MASS.
(ON OFFICIAL)
JAMES T. BROYHILL, N.C.
(ON OFFICIAL)

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
WASHINGTON, D.C. 20515

JAMES J. GAINE
CHIEF COUNSEL/STAFF DIRECTOR

March 10, 1980

Honorable Charles W. Duncan
Secretary
Department of Energy
James Forrestal Building
1000 Independence Avenue, S.W.
Room 7A257
Washington, D.C. 20585

Dear Mr. Secretary:

To legislate effectively on energy matters, the Congress must have timely and reliable data. As you may recall, on August 22 of last year I wrote you regarding a large discrepancy between the volume of crude oil reported by importers of record and the volume of foreign crude oil received into inventory by refiners. In your letter of September 19, you noted that although refinery receipts for entitlement purposes exceeded reported imports by about 400,000 barrels per day in 1977 and about 300,000 barrels per day in 1978, there were several differences in the two data series chief among which was that refinery receipts included crude oil booked into inventory before landing in the United States, while imports reflected actual volumes that pass through customs. While not fully explaining the discrepancies, the letter mentioned several other items that might contribute to the apparent gap. I understand that further work has been undertaken in an effort to better reconcile these numbers.

Now, another anomaly has surfaced this one regarding stripper oil. Since this oil is domestically produced and refined, I trust that it is not subject to the vagaries of shipping and accounting practices that appear to plague data series that attempt to record imports. As the attached table illustrates, there has been a rather large increase in stripper volumes reported by first purchasers. However, the increase in refinery receipts of stripper oil is even greater, and since the beginning of 1979 appears to significantly exceed the volume of production.

I would appreciate answers to the following questions:

(1) Are these figures, all of which were collected by DOE, considered accurate? Have there been or are there likely to be significant revisions? If so, please explain what they are likely to be?

(2) What reason(s) explain the large increase in stripper oil production in the second and apparently the third quarters of 1979?

(3) Are all new stripper oil designations checked, such as against production records? How does DOE prevent improper or fraudulent stripper oil classifications?

(4) Why did refinery receipts of stripper oil suddenly begin to exceed first purchases in the first quarter of 1979?

(5) Have these anomalies been noted by DOE and, if so, what actions have been taken to investigate the situation?

As you are well aware, the price difference between lower tier oil and stripper oil is large and growing. There is a considerable economic incentive to improperly classify price controlled oil as stripper and to reduce production below the MER so as to qualify for stripper status.

I would greatly appreciate receiving your response to the foregoing questions by the close of business, March 24, 1980.

Sincerely,

Bob Eckhardt
Chairman
Subcommittee on
Oversight and Investigations

Enclosure

cc: Ms. Hazel R. Rollins, Deputy Administrator
ERA - Department of Energy

Mr. Lincoln E. Moses, Administrator
EIA - Department of Energy

STRIPPER OIL: FIRST PURCHASES AND REFINERY RECEIPTS

(thousand barrels per day)

DATE	(1) FIRST PURCHASES OF STRIPPER OIL	(2) REFINERY RECEIPTS OF STRIPPER OIL	(1) - (2) DIFFERENCE
4th Qtr., 1976	1060.6	1026.7	33.9
1st Qtr., 1977	1040.1	1043.3	-3.2
2nd Qtr., 1977	1099.2	1050.9	48.3
3rd Qtr., 1977	1094.7	1093.2	1.5
4th Qtr., 1977	1119.8	1109.5	10.3
1st Qtr., 1978	1121.3	1106.2	15.1
2nd Qtr., 1978	1191.7	1181.4	10.3
3rd Qtr., 1978	1213.9	1188.6	25.3
4th Qtr., 1978	1253.1	1248.9	4.2
1st Qtr., 1979	1220.2	1315.7	-95.5
2nd Qtr., 1979	1306.9	1473.4	-166.5
3rd Qtr., 1979	N/A	1614.5	N/A
(July-August)	(1357.7)	(1625.3)	(-267.6)
4th Qtr., 1979	N/A	1657.3	N/A

Department of Energy
Washington, D.C. 20461

April 4, 1980

Honorable Bob Eckhardt
Chairman, Subcommittee on
Oversight and Investigations
Committee on Interstate & Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding the volumetric discrepancies in stripper well oil production as reported in the Domestic Crude Oil First Purchases Program and the Entitlements Program.

The quarterly figures which you have included in your letter for first purchases and refinery receipts of stripper well oil appear to be accurate when compared to Department of Energy monthly figures (see enclosure). While refinery receipts data for uncontrolled oil submitted on the Entitlements Form are never revised, data submitted on the First Purchases Form are frequently revised for a number of reasons. Therefore, stripper well data from the First Purchases Form are more accurate than comparable data reported on the Entitlements Form.

The increase in stripper oil production in the second and third quarter is a result of several factors: (1) a gradually increasing trend in stripper well production, (2) a definitional reporting problem in the refinery receipts data, and (3) possible miscertification of stripper oil classification.

With regard to the definitional reporting problem, refiners in most cases cannot specifically identify each category of exempt oil. Refiners may not be in a position to distinguish newly discovered crude oil or heavy crude oil separately from other uncontrolled crude oils. It is our opinion that much of this uncontrolled oil is being reported as stripper well oil on the Entitlements Reporting Form. While this does not adversely affect the Entitlements Program, the data cannot be directly compared to those data reported on the First Purchases Report.

While differences in the data systems may account for some of the data discrepancies, deliberate miscertification may

also account for larger receipts of stripper well oil being reported at the refineries than at the wellhead. The incentive for selling price-controlled crude oil at uncontrolled stripper prices has always existed, but the recent sharp rise in prices has further increased the incentive to certify falsely.

With respect to your questions 3, 4, and 5, we have taken actions to investigate these anomalies and to determine if fraudulent or improper classification of stripper oil has occurred. The Department is presently engaged in an effort to identify instances of miscertification of crude oil classifications and to take appropriate legal action where warranted. For example, the Office of Enforcement has determined that a significant portion of the reporting difference may be attributed to miscertification by crude oil resellers. The Office of Enforcement has recently developed the Crude Oil Reseller's Self Reporting Form (ERA-69) which has been useful in targeting firms for audits and further investigation.

As of March 31, 1980, the status of the crude reseller audit program was as follows:

Total crude resellers identified	--	441
Crude resellers currently under audit	--	129
Number of cases referred to:		
Office of special investigations	--	44
Department of Justice	--	24
Number of audits where there are alleged violations concerning miscertifications or non-certification	--	10

In addition, the new Domestic Crude Oil First Purchases Report (Form ERA-182) provides us with detailed information on uncontrolled crude oil production classifications. This new form combined with Enforcement audits will enable the Department to identify volumetric discrepancies for stripper well production within six months.

We appreciate your inquiry and hope this response has been helpful. We would be pleased to respond to any further questions you may have.

Sincerely,

Hazel R. Rollins
Administrator
Economic Regulatory Administration

COMPARISON OF VOLUMES (MBD)
FIRST PURCHASES -vs- REFINERY RECEIPTS
UNCONTROLLED CRUDE OIL

Mo/Yr	Stripper Oil (a) First Purchases	(b) Refinery Receipts	(c) Difference	Other Uncontrolled Oil* (d) First Purchases	(e) Refinery Receipts	(f) Difference	(c+f) Adjusted Difference
Jan 1978	1,030	1,065	- 35				
Feb	1,129	1,095	34				
Mar	1,196	1,157	39				
Apr	1,180	1,144	36				
May	1,196	1,202	- 6				
Jun	1,199	1,178	21				
Jul	1,162	1,188	- 26				
Aug	1,242	1,194	48				
Sep	1,238	1,184	54				
Oct	1,221	1,229	- 8				
Nov	1,206	1,232	- 26				
Dec	1,331	1,286	45				
Jan 1979	1,160	1,282	-122				
Feb	1,249	1,312	-63				
Mar	1,254	1,352	- 98				
Apr	1,286	1,430	-144				
May	1,313	1,460	-147				
Jun	1,321	1,531	-210	163	153	10	-200
Jul	1,307	1,583	-276	205	210	- 5	-281
Aug	1,406	1,668	-262	249	303	-54**	-316**
Sep	1,398	1,598	-200	538	490	48	-152
Oct	1,366	1,666	-300	682	595	87	-213
Nov	1,318	1,672	-354	700	625	75	-279
Dec	1,365	1,635	-270	783	697	86	-184

NOTE: *Includes Newly Discovered, Heavy, Incremental Tertiary, Naval Petroleum Reserves, and Other Uncontrolled Crude Oil beginning June 1979.

**48 MBD of Heavy Crude reported by refiners in August; reporting by First Purchasers began in September.

Mr. ECKHARDT. Thank you very much for a very useful response to our questions at this hearing.

Ms. ROLLINS. Thank you, Mr. Chairman.

Mr. ECKHARDT. The subcommittee is adjourned.

[Whereupon, at 11:47 a.m., the subcommittee adjourned.]

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